Children as Witnesses: The Impact of Video Technology in Child Sexual Abuse Cases.

A thesis submitted in partial fulfilment of the requirements for the degree of Master of Arts in Psychology at the University of Canterbury, Christchurch, New Zealand.

By
Angeline M. Wallace.

University of Canterbury,
1994.

Acknowledgements.

I would like to take the opportunity to firstly thank the Christchurch Police Department, without whom this thesis would never have eventuated. To Assistant Commissioner Merv Derecourt and Superintendent Howard Broad who gave me the initial clearance to begin. Detective Superintendent Neville Stokes and Detective Inspector Sandy Manderson who got the ball rolling.

To: Detective Sergeant Jan Edge,
Detective Sergeant Roy Mitchell,
Detective Ken Legat,
Detective Martin Lucas,
Senior Sergeant Phil Parsons,
Detective Marion Neill,
Detective Beverley Herbert,
Detective Bob Kerr,
Constable Dianne Smith,
Constable Pania Tapara,
and former detectives Donna Scott and Colin Eade.

Many thanks for their time and insights into the cases I looked at.

A special thanks is extended to Detective Sergeant Roy Mitchell and Detective Sergeant Jan Edge for guiding me in the right direction, and for their continual enthusiasm and interest. Thank you for all your patience with my ignorance of procedures and all the time made available to help me understand the full picture. Without this the journey would have been much longer and more difficult.

I would also like to express my sincere gratitude to Donna Scott who gave so generously of her time and knowledge. Her constant willingness and cheerfulness were very much appreciated.

I would also like to thank Nellie Harnett for her hospitality, support and assistance in gathering data. To the records staff, thanks for the many hours spent looking for the files. The warm and friendly manner with which I was received by all staff at the Christchurch Police Station was extremely heart-warming. Thank you.

Secondly, I would like to take the opportunity to thank my supervisor, Dr Stephen Hudson, who has assisted me through this valuable learning process. Your guidance, faith in my ability and encouragement have been invaluable.

A special thank you to my family for providing me with continual love, support encouragement and opportunities - most especially to my Mum for her time and assistance in putting this together. I appreciate all your help because without it I would never have got this far. Thank you.

To Darryl, many thanks for your unrelenting encouragement, listening ear and adaptability. To Michael, for helping to keep me smiling when things went wrong. Thank you for just being.

Finally, to all my friends, especially Wee Keng, who were with me all the way, thank you for your support.

Abstract.

This thesis investigated three main areas of child sexual abuse cases. Firstly, the practice and procedures employed by the Christchurch Police Child Abuse Unit were described. Secondly, the impact of video technology on the outcome of child sexual abuse cases reported to the Child Abuse Unit one year before and one year after the introduction of the Evidence (Videotaping of Child Complaints) Regulations 1990 were compared to assess the changes that occurred. Thirdly, the thesis looked at the impact of video technology in the courtroom once it was available at trial.

The results to the first part of the study saw a number of changes in the structure, practice and procedure of child sexual abuse investigations at the Child Abuse Unit since 1986. These changes reflect a movement toward assisting child victims through all stages of the legal process. Staff training both before joining the unit, as well as while working on the unit, have ensured highly skilled and knowledgeable officers work with the child victims. Another improvement to the practice of child sexual abuse investigation has been from supporting agencies and professionals in the community such as DSAC doctors who assist with medical examinations.

The second part of the study anticipated that the videotapes would increase the number of guilty pleas entered. The results showed a decrease in the number of guilty pleas entered after the introduction of the regulations, although this was not significant. There was, however, a significant decrease in the duration of time taken to enter the guilty pleas after the regulations were introduced. There was no difference in the overall length of time taken to reach trial, or to resolve cases before and after the regulations came into being.

With respect to the results obtained from trials, it was found that there was significantly less use of viva-voce (oral) presentation of testimony for both evidence-in-chief and cross-examination and re-examination once the video technology was available. No clear preferences were noted for videotaped evidence to be presented during evidence-in-chief compared to screens and closed-circuit television. However, screens were used significantly more for cross-examination than closed-circuit television after video technology was available, and that viva-voce testimony was significantly less used. During cross-examination, issues of "the nature of the contact", "no threats or force" and "fabrication of the allegation" were raised significantly more often by defence counsels with child victim witnesses after the availability of video technology in the courtroom. Significantly more child victim witnesses were examined regarding competency after the availability of

video technology than before, especially regarding the issue of 'added responsibility to tell the truth'. There were no clear consistencies with the use of various forms of video technology and the outcomes of the cases. Sentences ranged and varied without any clear consistency also.

Table of Contents.

List of Tables.

List of Figures.

CHAPTER ONE.

Introduction.

CHAPTER ONE.

Introduction.

Children become involved in legal cases in a variety of roles; as witnesses, as offenders, even as a form of property in cases of custody after divorce or adoption. It is heartbreaking to realise that children fall victim to crime. We all like to think of childhood as a time of innocence, trust and protection. To protect children from the potential continuing dangers of crimes such as child abuse, murder, sexual exploitation and kidnapping, legal action is often required. If legal action is taken, a child may be required to give evidence. In the last decade, the topic of children as witnesses has developed from a minority interest by a few psychologists and lawyers, to a subject which now generates international coverage. The importance of child evidence in criminal trials, especially child sexual assault cases, is widely recognised. However, legal rules and 'common knowledge' treat child evidence as inherently unreliable. In an effort to understand this area more fully, a number of psychological studies have looked at the various aspects of child witness testimony and show that children can be good witnesses when their special needs are understood. This has clear implications for legal rules and practices.

1.1 OVERVIEW OF CHILD SEXUAL ABUSE.

Definition.

Child sexual abuse is difficult to define. The term refers to a wide variety of situations and interactions, and does not designate a single specific type of behaviour. The term has become widely used in the past few years with the increased public awareness whereby media coverage of child sexual abuse has become almost commonplace.
The definition given by the National Advisory Committee on the Prevention of Child Abuse (October 1986) provides a comprehensive description of the variety and extent of child sexual abuse. The term "Child Sexual Abuse" refers to:

> The involvement of developmentally (i.e., physically, intellectually and/or emotionally) immature children or adolescents in sexual activities which they

do not fully comprehend, to which they are unable to give informed consent or which violate the culturally acceptable sexual taboos of family roles or adult/child relationships.

It includes paedophilia, rape, incest and sexual activity between parents and adopted children, step children or de facto children, or between any persons in loco parentis and their child(ren) in their care. Sexual activity includes sexual intercourse, fondling of the genital area, breasts or other parts of the body perceived by the child as private, sexualised kissing, mutual masturbation and involving children in pornographic activities, all either with or without the use of force. The fact that a child or adolescent may seem to be a willing participant does not remove the culpability of the adult or prevent the activities from comprising sexual abuse."
(National Advisory Committee on the Prevention of Child Abuse, 1986, p.2.)

In basic terms, child sexual abuse involves someone considered too young to give informed consent who has been involved in a sexual act. For this reason, in all sexual abuse cases, the child is seen as having a grievance, and the adult is held morally and legally responsible, and culpable. The criminal law does not define child sexual abuse as such, rather sections 127-142 of the Crimes Act 1961 deal with offences of a sexual nature and provide a framework of prohibited acts from the criminal law's point of view (Geddis, Taylor, & Henegan, 1990).

Categories.

Child sexual abuse is generally divided into two categories - intra-familial or extra-familial.

(1) Intra-familial sexual abuse includes any form of sexual incest - sexual intercourse between relatives with the prohibited degrees of relationship defined by the law. It also includes sexual activity imposed by a person in a parenting relationship with a child, even if there is no blood or legal relationship. A New Zealand Women's Weekly sample of 315 females suggested 45 per cent of offenders were relatives (Saphira, 1985). Saphira (1987) also suggests that about a quarter of the abusers are in the fathering role.

(2) Extra-familial abuse is any form of sexual activity imposed on a child by an adult who is unrelated. This can sometimes include offending by an adult who is unknown to the child. Saphira (1985) states that 89 per cent of sexually abused children in a New Zealand study were molested by someone they knew (Jackson,

1980; author's previous work). Only 11.75 per cent of offenders were total strangers to the child (Jackson, 1980).

Incidence.

The true incidence of child sexual abuse has not yet been determined. The nature of child sexual abuse often means children do not tell someone. Many of the studies which have attempted to explore the incidence of child sexual abuse have been criticised on one or more methodological grounds (see New Zealand Advisory Committee on the Investigation, Detection and Prosecution of Offences against Children, 1988). With the limitations considered, the most reliable incidence of sexual abuse of girls under 14 years is approximately 10 to 15 per cent, and for boys under 14 years approximately 5 to 10 per cent. These figures have been arrived at by looking at reported cases to various agencies or survey studies of adults asking about previous molestation offences. The New Zealand Advisory Committee on the Investigation, Detection and Prosecution of Offences against Children reported that ".....the most reliable studies presently available suggest that around one per cent of girls under 14 years may experience intra-familial sexual abuse involving full or attempted intercourse." (Report of the New Zealand Advisory Committee on the Investigation, Detection and Prosecution of Offences against Children, 1988, p. 10). Although the general trend of data suggests an increasing number of people reporting their experience, it would be fair to say that reported cases still represent only the tip of the iceberg.

Despite the horrendous nature of this abuse, researchers are in agreement that offences are greatly under-reported (Henegan, Taylor, & Geddis, 1990; Jackson & Ferguson, 1983; Kelley, 1990; New Zealand Advisory Committee on the Investigation, Detection and Prosecution of Offences against Children, 1988; Saphira, 1987).

Epidemiology.

Literature on epidemiology of child sexual abuse suffers many methodological flaws, similar to those found in incidence research. Often samples are selective and cannot be generalised to the population. The results are often diverse and incompatible. Some studies fail to identify the age of the victim at the time of the incident, while others do not record the relationship of the perpetrator to the victim. These particular shortcomings make any comparison between studies impossible and the interpretation of their findings difficult. The Report of the

Advisory Committee on the Investigation, Detection and Prosecution of Offences against Children states the literature suggests that of all victims of sexual abuse:

(1) Eighty per cent are female.

(2) The median age of abuse is 9 to 10 years for female victims, and 7 to 8 years for male victims.

(3) Eighty per cent of offenders are known to the child, of which 40 per cent comprise those in the paternal role and 40 per cent other relatives and acquaintances.

(4) The younger the victim, the more likely the child is to be repetitively assaulted by someone known to them at home and to experience less physical force in the process.

(5) Male victims are more often subjected to physical violence and less often victimised within the family.

(6) The nature of the victim/offender relationship is the most powerful factor influencing disclosure and means of presentation of the child victim, that is, the earlier the child presents after the assault, the less likely it is that the perpetrator is known to the child.

(Report of Advisory Committee on the Investigation, Detection and Prosecution of Offences against Children (1988), Volume 1, Page 11.)

A review by Watkins and Bentovim (1992) suggest the ratio of abuse (boys to girls) varies considerably. Community studies rates range from five girls : three boys to two or four girls : one boy. Clinical studies suggest four girls are abused to one boy, hence, it is difficult to determine accurately the prevalence of abuse. However, Watkins and Bentovim (1992) suggest there are many factors which may contribute to the prevalence of sexual abuse in specific populations. It is believed that child sexual abuse only happens within isolated communities or where there is over-crowding and poverty. Child sexual abuse cuts across all classes and economic groups (Moore, 1985) although some groups have been isolated as having higher incidence. Research suggests that brother/sister incest is more often found in middle and upper echelons of society, and father/ daughter incest in the lower echelons (Moore, 1985). However, according to Cavalin, (1966):

> "Overall there is little evidence that deprivation, low intelligence, overcrowding and isolation are significant contributing factors. It is likely that statistical studies are distorted by an artefact, namely that poor are much more prone to prosecution for any anti-social act, sexual or otherwise."

The Effects of Child Sexual Abuse.

In general the literature suggests that the majority of children are adversely affected in some way by sexual abuse. However, the specific effects are difficult to determine due to limitations intrinsic to any study in this area. Establishing a causal link between child sexual abuse and any particular factor subsequently found in a victim has proven an impossible task, as individuals manifest symptomatology differently. The main problems with effects research are documented by Andrews and Merry, (1988) as -

(1) Sampling bias (either concentrate on a defined group and then extrapolate their findings to all sexually abused children or vice versa);

(2) Disentangling the source of the trauma; is the behaviour related to sexual abuse or some other factor?;

(3) Lack of objective measure of psychological ill-effects; and

(4) Failure to determine developmentally specific effects (i.e. how age and developmental stage influence the expression of the effects of abuse).

Even with all these limitations, there still appears to be a consistency with the findings that indicate a strong correlation between child sexual abuse and a collective of effects.

These effects are wide and varied. The effects of sexual abuse cannot be simplistically related to any one specific factor. There are a number of factors which influence the impact of abusive acts upon a child. The National Advisory Committee on the Investigation, Detection and Prosecution of Offenders against Children list ten such factors as -

(1) Child's age
(2) Stage of psychological sexual development
(3) Nature of abuse act
(4) Frequency of repetition
(5) Amount of aggression involved
(6) Relationship of abused to abuser
(7) Nature of relationship with non-abusive caretaker
(8) Degree of difficulty experienced by child in revealing abuse
(9) Reaction of those in whom the child confides
(10) Degree of family support given to child after abuse in disclosed

Much of the literature suggests long term and short term effects of sexual abuse, however, no longitudinal research has been done to reinforce these ideas. A review by Browne and Finklehor (1986) categorises the findings in their review of the

literature in terms of initial and long term effects; initial effects defined as those occurring within two years of the abuse. The term initial is used in preference to the term primary because the latter implies that the reactions do not persist, an assumption that has not yet been proven (Browne & Finklehor, 1986).

Browne and Finklehor (1986) review initial effects such as fear, anxiety, depression, anger, hostility and inappropriate sexual behaviour, and long term effects such as depression, self-destructive behaviour, anxiety, feelings of isolation and shame, poor self-esteem, a tendency towards revictimisation and substance abuse. They also note findings of general sexual dysfunction and difficulty in trusting people. Mrazek & Mrazek (1981) take an extension of this, categorising effects into short and medium term effects under four headings, acknowledging that sexual abuse usually occurs in the context of multiple problems:

1. Problems in sexual adjustment
2. Inter-personal problems
3. Educational problems
4. Other psychiatric problems

Although recognition of the limitations of research is made, there appears to be a general consensus that sexual abuse does result in consequences that may persist throughout the victim's life with detrimental results, especially in the domain of inter-personal relationships.

<u>Seriousness of Offence.</u>

The types and forms of sexual abuse are described in the literature in various ways. Definitions of sexual abuse vary, methods of collecting descriptions of abuse differ, sample sizes are limited and often consist of students. A common way of presenting data on sexual abuse has been to demonstrate that the nature of the abuse is related to the degree of emotional trauma (see Browne & Finklehor, 1986, for a review). Many factors need to be taken into consideration when looking at the severity of the sexual experience on the victim's emotional and developmental well being, making it difficult to categorise sexual offences against children in terms of specific effects.

Specific sexual behaviours are described in the literature (Badgley, 1984; Finklehor, 1979; Groth, 1978; Saphira, 1985). The range of behaviours generally identified exhibitionism by the perpetrator as the least intrusive act, and penetration

(anal/vaginal) as the most intrusive. Behaviours perceived as least intrusive are also considered to be the least damaging in terms of emotional trauma.

The severity scale developed by Russell (1983; 1984; 1986) appears most clearly defined in terms of categories of child abuse that relate to reported adult emotional trauma. It is conceptualised as:

1) Very Serious Abuse: Completed and attempted vaginal, oral and anal intercourse, cunnilingus, digital penetration, forced and unforced.

2) Serious Sexual Abuse: Completed and attempted genital fondling, simulated intercourse, digital penetration, forced and unforced.

3) Least Serious Sexual Abuse: Completed and attempted acts of intentional touching or buttocks, thighs, leg or other body parts, clothed breasts, genitals, kissing, forced or unforced.

Margolin and Craft (1990) also developed a severity scale for child sexual abuse rating sexual behaviour on a scale from 1 to 6 based on intrusiveness of the action and whether or not threats or physical damage occurred. These scales were validated by demonstrating a significant relationship between the level of severity and the probability of police charges being laid. The categories used were:

1) Sexual exhibitionism.
2) Non-violent behaviour without intercourse.
3) Intercourse (oral, vaginal or anal) without physical threat or injury.
4) Intercourse with threats.
5) Sexual aggression with physical injury - without intercourse.
6) Sexual intercourse with physical injury.

Most research has focused on resulting trauma of adults and children as a main indicator of seriousness of child sexual abuse basically for therapeutic reasons. The seriousness in terms of the police charges are identified according to a number of factors. The age of the victim when the offence occurs is considered a factor in determining the seriousness of the offence. A 2141 charge, a charge code used by the police, of indecently assaulting a female under 12 years is considered more serious than a 2142 charge of indecently assaulting a female aged 12 to 16 years (see p. 66-67, Chapter Two, Sexual Offences Charges). Not only is the age of the victim at the time of the offence considered important in assessing seriousness of an offence, but also

the duration of the offences when there is more than one. The longer the duration of sexual assault the more emotionally damaging it is to the victim.

The relationship of the perpetrator to the victim is considered very important in terms of seriousness of an offence. Offences committed by relatives, such as a father, are considered more serious that offences by a stranger. The preponderance of studies also support this indicating that abuse by fathers and step-fathers has a more negative impact than abuse by other perpetrators (Finklehor, 1979). Gladwell (1988) contends that the seriousness of child sexual abuse has to be examined from various aspects such as context, duration, response, emotional effects and actual sexual behaviour. However, developing an adequately tested severity scale is just as important as being able to describe what happens to children who suffer sexual abuse (Gladwell, 1988).

Victimisation Process.

Many people question why abuse might occur and why children do not speak up about it sooner. There appears to an extremely complex group of factors that interplay in the stages up to the abuse occurring. Berliner and Conte (1990) interviewed child victims about the victimisation process, the person who abused them and how abuse might have been prevented. The results suggest that the victimisation process involves three overlapping processes: sexualisation of the relationship, justification of the sexual contact, and maintenance of the child's co-operation. It is little wonder children are reluctant to tell because of the crisis of loyalty with which the child is too young and afraid to cope with (Moore, 1985).

1.2 CHILDREN AS WITNESSES.

History.

As far back as the seventeenth century, children have been called upon to testify as witnesses. In 1692, at least twenty citizens of Salem village were accused, tried and found guilty of practising witchcraft and sorcery. Although there was nothing inherently strange about being accused or found guilty of practising witchcraft, the Salem trials were unique in history in that they represented the first time that children were called upon to testify in criminal cases. Of the trials, the key witness testimony was provided by a child, namely one of the so-called 'circle girls' aged five to twelve years of age. Not only were the children the accusers, they were often

the evidence purporting to have been physically afflicted by the defendants. The picture painted was one of a village in massed hysteria 'electrified' by young children's imaginations, prompting them to reconstruct events in a wholly biased manner, based upon adults' suggestion. Parents and elders in the village wittingly or unwittingly 'suggested' scenarios to the children, and the children's later testimony frequently incorporated elements of these scenarios. It is possible to understand why so many of the Salem child witnesses testified to having spoken to black or brown dogs, black cats or dark coloured rabbits, as the lore of the time included beliefs that the devil came to witches in the form of dark coloured animals. This was part of the lore that children probably knew, and, even if they did not, the pre-trial questioning of elders probably created strong expectations (Ceci, Toglia, & Ross, 1987a ; Ceci, Toglia, & Ross, 1990). Since the Salem trials, psychologists and jurists have addressed the issue of the credibility, accuracy and suggestibility of children as witnesses, and as yet no consensus on these issues has been reached.

The law has traditionally taken a very restrictive view of child witnesses, regarding them as inherently unreliable. With the increased number of trials at which children are required to give evidence, especially with the increased awareness of sexual assault of children, the issues surrounding children's testimony has prompted wide study relating to many facets of children as witnesses. In addition to the above-mentioned areas, other areas investigated include the competence of a child as a reliable witness within the legal arena and the degree of stress which may result from being a witness in court. The implications of this study have provided many suggestions as to what factors may positively enhance the experience for children who have to pass through the legal system.

The Legal System.

Competence to Give Evidence.

Perhaps the most controversial law applying to child witnesses is the requirement that their competence to testify be demonstrated. Competence here is a question of the judge's evaluation of the child's capacity for truthfulness (Spencer & Flin, 1990). If the child understands the significance of taking the oath, he or she can give sworn evidence; children under the age of 14 years are rarely sworn. Most states/countries have laws specifying that children under a certain age are presumed incompetent to testify unless competence can be demonstrated (Selkin & Schouten, 1989). In New Zealand the Oaths and Declarations Act states that child witnesses under the age of

12 years do not have to take an oath before giving evidence. In practice whether they are deemed competent to give evidence is decided by the court based on a) whether the child shows an understanding of the importance of telling the truth (Selkin & Schouten, 1989 ; Taylor, Geddis, & Henagan, 1990; Brooks & Siegal, 1991; Naylor, 1989a), and b) whether the child can convey the evidence in a manner that can be understood (Taylor et al. 1990). Often there is no minimum age set, but English courts generally discourage the use of child witnesses less than five years of age (Naylor, 1989a). This does vary around the world. Precedence exists in Queensland courts, Australia, for children as young as three years to give evidence (Brooks & Siegal, 1991). In New Zealand, there does not appear to be any set laws relating to the minimum age at which children can give evidence.

The significance of giving sworn evidence is that the corroboration rule is less restrictive, because sworn evidence is thought to be more reliable than unsworn evidence. A jury may also believe sworn evidence to be more reliable, therefore, more credible (Naylor, 1989a). However, when an adult takes an oath or an affirmation, there is no exploration of their understanding of truth. Every day in our courts, findings are made that certain witnesses are not "credible" or "reliable" or are "unfortunately mistaken" - descriptions often euphemistically used for "lying their heads off" (Taylor et al. 1990). As yet no evidence has been found of any correlation between age and honesty.

The Requirement of Corroboration.

If a child gives evidence the judge will usually require that other evidence be provided which corroborates the child's testimony before allowing the jury to convict on the basis of child's evidence (Naylor, 1989a; Selkin & Schouten, 1989; Spencer & Flin, 1990). The requirement of independent supporting evidence is seen as counteracting the risk that the jury will be unable to detect the witness's unreliability, and will give it undue weight (Naylor, 1989a). In fact it appears that jurors are typically sceptical about the testimony of child witnesses even as they enter the courtroom (Goodman, Golding & Haith, 1984). A corroboration warning is required by law in relation to adult victims of sexual assault, and accomplices giving evidence against each other. This has been imposed to combat the fear that witnesses will deliberately lie, for example, from self interest or, in the case of sexual abuse, from malice or shame. Many law reform bodies have examined the corroboration requirement over the years, often reaching different conclusions and some suggest that corroboration in child sex abuse cases needs to be abolished, as the corroboration rule often works against victims of sexual offences (Williams, 1987b).

This ruling, developed from the prejudiced assumptions of law makers, has changed of late in many countries, including Canada (Hoskins, 1983), Scotland (Spencer, 1987b, 1988) and some states of America (Levine & Battisoni, 1991). Many states in Australia have now abolished the corroboration requirement in respect of sexual assault cases but have retained a corroboration warning (Naylor, 1989a). This issue is especially pertinent to sexual assault cases and child abuse cases because children appear most likely to testify as witnesses at trials connected with this kind of crime. This is due to the fact that the child is often not only the victim, but also the only eyewitness and these cases revolve largely around the child's statements (Goodman, Aman & Hirschman, 1987; Goodman, Bottoms, Herscovici & Shaver, 1989). Even if corroborating physical evidence is available - and often it is not - it typically must be tied to the defendant through the child's testimony.

Exceptions to Hearsay.

Hearsay is generally excluded as evidence in law, but exceptions may be made in cases involving child witnesses. These exceptions broaden the admissibility of children's statements (Selkin & Schouten, 1987). Spontaneous utterances overheard by another can be admitted if the child's statements are made soon after the event. The presumption underlying the 'rea gestae' (excited utterances) exception is that the child is not making the statement but rather that the event is speaking through the child. If a child is too young to take an oath, the court might accept testimony of an adult about a child's excited utterances. Statements made during a medical examination may be admitted, as can a psychiatrist's and a psychologist's testimony about statements made during therapy sessions (Selkin & Schouten, 1987). One recent development that has been undertaken in New Zealand, seen as an exception to the hearsay ruling, is the use of videotaped interviews in place of a child's testimony. However, the allowances made for accepting this type of hearsay evidence into court do not make provisions for it to be entered into court automatically. This has been a bone of contention between many child advocates and the Criminal Justice System (Flin, 1988; Spencer, 1988; Spencer, 1989; Spencer & Tucker, 1987; Williams, 1987b). Here, arguments for the advantages of permitting video evidence of children is strongly emphasised and debated against the defendant's "fundamental right to cross-examine in the presence of the jury"(Spencer & Tucker, 1987, P.816).

Children's Memory.

It is commonly assumed that a child's memory is worse than that of an adult. However, recent studies have shown that this assumption is incorrect (Ceci et al. 1987; Fivush, 1993; Goodman et al. 1984; Goodman et al. 1987; see Naylor, 1989a; 1989b and Pipe, 1993 for reviews). Studies of memory tested by briefly presenting children with items and then testing recall, show that children may well notice as much as adults, or more, but suggest that retrieval depends on how well the child can organise the information. There are said to be three stages of memory - acquisition, retention and retrieval. Memory defects may be due to failure at any one of these points (Loftus, 1979). An event will not be remembered if it was not perceived - if no memory was acquired ; it will not be recalled if the memory was not retained and, even if it was acquired and retained, the event may not be recalled if there are problems with retrieval. Children cannot provide information about events that cannot be remembered, in the same way that adults cannot (Brainerd & Ornstein, 1991).

It has been suggested that younger children have inferior strategies for encoding information (see Davies, 1988, for a review). Encoding involves the effective taking in of information from the environment, and relating such events to existing knowledge and experience. According to some researchers, four to five year old children are often less accurate in their recall than older children (Brooks & Siegal, 1991; Lindsay & Johnson, 1987). However, others point out the close resemblance between children's perception and encoding to adults perception and encoding (Penrod, Bull, & Lengnick, 1989). The development of the ability to organise memories and to generate visual images that facilitate recall occurs between five and ten years of age (Zaragoza, 1987). Very young children therefore have not fully acquired this skill. There seems to be an increase in the amount of information which will be recalled up to 13 or 14 years when adult levels are reached (Goodman et al. 1987; King & Yuille, 1987). Children tend to rehearse less and fail to utilise clustering techniques or other memory strategies to improve retention (Zaragoza, 1987; see Taylor et al. 1990 and Pipe, 1993, for reviews). Events which do not require special organising strategies, such as real life situations, tend to be remembered similarly well regardless of age (Cohen & Harnick, 1980).

Young children certainly seem to have less complete free recall. When asked to relate as much as they can about an event without prompting, younger children omit more details (see King & Yuille, 1987 ; Goodman et al. 1987 ; for reviews: Brooks & Siegal, 1991; Gabriano & Stott, 1989). Verbal questioning is the basic mode

of communication for adults. However, in a child's world, the vocabulary is not always available to express themselves. Toy props can be used to help children describe what happened. Price and Goodman (1984) found that children can recount much more about an event if their memory is supported by toy props. It was also found that, although the children were only 2.5 years to five years old, the toys did not elicit fantasy responses. The use of play as a mode communication with young children is widely used, especially in therapy (Walker & Bolkovatz, 1988) and has been found extremely useful in eliciting recollections of traumatic events children have encountered (Jones & Krugman, 1986)

Memory is generally improved when cues are used or when the general context is reinstated (Batterman-Faunce & Goodman, 1993; Johnson & Foley, 1984; Pipe, Gee, & Wilson, 1993). Children's memory abilities are highly dependent on situational influences. Specifically, testimony is more likely to be accurate when: a) the report concerns 'central' information such as salient actions (Goodman, Hepps, & Reed, 1986); b) the event is relatively extended in time (Dent & Stephenson, 1979); c) the assailant is familiar (Bahrick, Bahrick, & Wittlinger, 1975), such as a neighbour, relative or acquaintance; d) the event is repeated (Fivush, 1984); and e) highly suggestive questioning does not occur (Loftus, 1979). The fact that children have fewer life experiences on which to flag memories (Johnson & Foley, 1984), and the absence of a broad knowledge base, would possibly explain children's sensitivity to the context of the situation. But children are more frequently faced with unfamiliar complex events and are more often called upon to impose order on this perceived chaos (King and Yuille, 1987) One way of doing so is by using play in an attempt to assimilate real events.

Very recent studies by Goodman, Rudy, Bottoms and Aman (1990) suggest that children have many concerns - the foremost being bodily injury or events which may cause embarrassment or social rejection - and that these concerns have an impact on memory. The significance of an event on which a memory is based has also been suggested as pertinent (Goodman et al. 1987). A more recent study by Price and Goodman (1990) looked at 3.5 and 5.5 year old children's memory for a recurring event - visiting a wizard. This study showed that pre-school children's knowledge emerges slowly from simple cause-effect knowledge bound to a particular context.

This is not to say that what they do recall is inaccurate (Dent, 1991; Melton, 1981); in fact, studies of children as young as three years have shown that they are able to recognise previously seen images as accurately as older children (Ceci, Toglia &

Ross, 1987; Moston, 1991; Lloyd-Bostock, 1988). Studies have also found that children as young as five years can be as accurate as adults in giving information about recent events in response to simple (non-leading) questions (Price & Goodman, 1990; Goodman et al. 1987). These findings have also been confirmed with confessions of perpetrators (Goodman et al. 1987).

The idea of using cues to elicit memories from children has been a great source of debate, especially considering the implications of misleading cues or prompts (Lloyd-Bostock, 1988). Young children are less competent at retrieving information systematically from memory. Hence, if prompts or cues are given, they can produce a great deal more information. Again children appear to be handicapped by their limited experiences and understanding; New Zealand research by Dr. M. Pipe of University of Otago is of interest in this regard (Pipe, Gee, & Wilson, 1993). This study compared groups of six year old and ten year old children who observed a magic show presented by an unfamiliar adult. The children were interviewed two weeks later and again two months later. The results indicated that in free-recall ten year old children recalled more than six year old children and relevant cues enhanced recall for both groups. Irrelevant cues did not mislead children into making errors and both groups of children showed better recall and were more resistant to misleading questions about actions rather than detail. Abstract questions about truth and lies did not predict whether the children would be misled.

Accuracy.

While less detail is recalled by young children, their accuracy does not seem to be a problem (Goodman et al. 1987). Children's errors tend to be errors of omission rather than errors of commission. That is, while children often recall less than adults do, what they do recall is no less accurate. For example, laboratory studies indicate that, when asked open-ended questions such as "What happened?" (with respect to an event that occurred some time in the past), young children tend to say relatively little and their reports are not always coherent, but low error rates indicate that their reports are seldom wrong (Cole & Loftus, 1987; Davies, Tarrant, & Flin, 1989; Gabriano & Stott, 1989; Goodman et al. 1990; Goodman & Reed, 1986). Studies of children as young as three years have shown that they are able to recognise previously seen images as accurately as older children (Ceci, Toglia, & Ross, 1987; Lloyd-Bostock, 1988; Moston, 1991). Studies have also found that children as young as five years can be as accurate as adults in giving information about recent events in response to simple (non-leading) questions (Price & Goodman, 1990 ; Goodman

et al. 1987). These findings have also been confirmed with confessions of perpetrators (Goodman et al. 1987). Older children respond more completely than younger children to structured questioning but there is no effect of age on recall accuracy; where the information increases so does the misinformation (Dent, 1991; Goodman & Reed, 1986; King & Yuille, 1987).

Children also 'remember' few non-existent details. Where memory is unclear or weak, children may be led to 'fill in' in order to please adults, but generally may be less likely to display prejudices that interfere with accurate adult perceptions over time. They may entirely ignore verbal suggestions that rely on subtle semantic nuances which can interfere with accurate recall in adults (Dale, Loftus, & Rathbun, 1978). Marin, Holmes, Guth and Kovac, (1979) found that with an increase in the number of incorrect items recalled, five and six year old children had a three per cent false-positive rate while for children over eight years there was a rate of approximately ten per cent. Similar findings have been indicated from developmental research on the 'feeling of knowing' by Butterfield, Nelson and Peck (1988). Their results suggested that older subjects have more knowledge than younger ones, and hence they include incorrect knowledge that they wrongly believe to be correct; thus making more errors of commission. Although older subjects may recall a greater percentage of information, they may overestimate their expertise.

While children can be reasonably accurate in answering objective questions, they do have difficulty remembering certain types of information. Children, like adults, may have difficulty answering questions about peripheral details superfluous to the main action or actors, for example, "What colour were the walls of the room?" A recent study by Goodman et al. (1987) found that some types of memory, such as descriptions of the room, were more susceptible to alteration than others.

Although children may make mistakes recalling peripheral, non-significant details, they do not err when asked about things that are personally meaningful, especially actions involving touching their bodies (Goodman et al. 1990). In the later study done by Goodman et al. (1990) looking at whether young children are likely to be led into making false reports of abuse when nothing sexual or traumatic has occurred, it was concluded that it seemed unlikely that normal children would easily yield to an interviewer's suggestion that something sexual occurred when, in fact, it did not.

The ability to focus on relevant or central features of a situation and ignore peripheral details develops with age. The significance of an event in this instance

has a great impact on memory. Oschsner & Zaragoza, (1988, cited in Goodman et al. 1990), looked at children's memories for events that related to a crime and a neutral event and found that memory for the crime was better. Children may also provide details which an adult may have overlooked. Sometimes very young children manage to remember interesting items that older children and adults miss completely because older individuals automatically screen out many items that are irrelevant. These are often irrelevant to some ongoing activity, but are potentially relevant in court (Johnson & Foley, 1984). Often, if an event involves features in relation to which a child is particularly knowledgeable, he or she may have better recall than an adult (Naylor, 1989a). For example, a child may be particularly interested in motor vehicles and be able to pick the model of a car involved in a crime better than an adult.

Repetition.

Another problem that is of difficulty to both adults and children is accurately recalling events that repeatedly occur over a period of time. Berliner and Barbieri (1984) note that this problem is most pertinent in prosecuting sexual assault on children as the offence often involves a number of separate acts over a period of time. This can give rise to difficulty in the victim accurately recalling the sequence of events. One study of three and five year old children found that they were able to give more information about a general case (e.g., what happens at school?) than about a specific instance of a recurrent event (e.g., what happened yesterday at school?) (Cole & Loftus, 1987). This meant an event had to be quite novel for it to be recalled in great detail. The more experience a child has with a given event, the less likely he/she will be able to describe a specific instance (Farrar & Goodman, 1990; Goodman & Clarke-Stewart, 1991; Price & Goodman, 1990). Unfortunately this is what the legal system requires - specific events that occurred on or between specific dates. Children of four to six years have difficulty locating events temporally compared to spatially, and concepts of time and sequence as opposed to concepts of speed and distance, are normally not acquired until the age of ten (Brooks & Siegal, 1991). At five years of age a child is just beginning to understand the meaning of yesterday and tomorrow, morning and afternoon, and it is only at the age of eight years that concepts of periods of time, like weeks and years, are grasped (Marsh, 1991). It should be noted that, if prompted, children as young as three years can recall past events well, although problems with dating, sequencing and attributing intent or motivation to participants emerge (Brooks & Siegal, 1991). Without signposts on which to fix events, a child is more likely to relate to personal

milestones, for example, before I started school, rather than abstract concepts such as the number of the year (Marsh, 1991). Typically on recognition tasks, accuracy has been found to improve with increasing age, although equivalent performance between adults and four to five year old children has been noted (Peters, 1987; Yarmey, 1984; for a review see Brooks & Siegal, 1991).

In general children can recall events for just as long as adults, and children as young as six years are able to remember a sequence of events accurately (Johnson & Foley, 1984). Regardless of this ability, as time passes some children become increasingly reluctant to review disagreeable material (Taylor et al. 1990). Along with the fading of memories with time, the problem of source monitoring is an issue pertinent to children's memory. Before court proceedings, there is a great deal of time in which witnesses can mull over, discuss and read about the events that have taken place either through investigation sessions or media coverage, family conferences and so forth (Loftus, 1979). This makes it increasingly difficult to distinguish what was experienced from other sources of information (Bernstein, 1982; Kail, 1990). People tend to incorporate different sources of information about an event into memory, and the extent to which the new information is inaccurate, the testimony will be inaccurate (Zaragoza, 1987). Hence source monitoring or knowing the source of one's memories becomes increasingly difficult.

One of the biggest issues that follows on from that of source monitoring is whether young children can distinguish between reality and fantasy. It is regarded as common knowledge that children at times confuse imagined and actual events and people. Because of their 'rich imaginations' adults have frequently concluded that a child's allegations of sexual abuse must be a product of their fertile minds (Taylor et al. 1990). To some extent this may be in order to avoid facing the reality of the abuse, instead confining it to the realms of fantasy. Reinforcement for this position is gained by citing the times when a child mistakes a dream for a real event or when they become so absorbed in play that the boundaries between make-believe and reality disappear. Recent concern has flourished with respect to children being manipulated to make allegations of molestation in the context of custody disputes. However, King and Yuille (1987) conclude that only a small proportion of sexual assault cases were based on fictitious allegations and that most of these were generated by adults. One belief held is that the ability to differentiate fantasies from reality is a function which develops with increasing age. People working with children in the area of sexual assault have found little evidence to support the claim that they genuinely fail to distinguish fact from fantasy - based both on examination of children and high rates of admissions by offenders (Berliner & Barbieri, 1984).

Developmental differences in reality monitoring have been looked at by Johnson and Foley (1984) in a study that compared adults and children aged six to twelve years in a series of experiments where subjects had their memories tested for photographs/words they had actually seen compared with memories of pictures/words they had been asked to imagine or words they had heard. All subjects showed some degree of confusion; confusing what they had seen with the imagined pictures or confusing the words they had actually seen with those they had heard. However, children, including the six year olds, were found to be no more likely than adults to confuse the 'seen' with imagined pictures, or confuse the words actually said with the words heard. Hence, children as young as six years have the capability to differentiate memories originating from different sources - one external, one internal - as well as older subjects. An age difference was found where children had to distinguish memory of what they had thought about saying/doing from memory of what they had in fact said/done. The methodology of this study - asking a person to imagine something - may produce images of less strength than in spontaneous fantasy. Also, in sexual abuse cases where children are most likely to testify, the issue of whether children can distinguish their own thoughts from their own actions is irrelevant. In such circumstances children have to distinguish their own thoughts from another's actions (Johnson & Foley, 1984 : Taylor et al. 1990). Kail (1990) suggests they are quite skilled when asked to distinguish which of two people performed an action. With respect to pre-schoolers, Fivush(1993) recently concluded "the research indicates that pre-schooler children do not tend to incorporate information provided in adults questions into their own recall of an event. Thus, although interviewers may need to ask specific questions in order to elicit recall from young children, the specificity of the questions does not seem to compromise subsequent recall,"(p.19). The stage at which a child can distinguish what another person did and what they imagined that person doing is still not clear, and with younger children (i.e. under six years) being allowed to testify in court the issue of this distinction is extremely relevant to legal testimony (Johnson & Foley, 1984).

Memory and Suggestibility.

Overall the literature has shown a lack of support for the blanket statement that children are highly suggestible about events of personal significance, such as sexual assault (Goodman et al. 1990). On the other hand, under certain circumstances both adults and children are open to suggestion. Numerous cases can be cited in support of the suggestibility of children, taking cases from as far back as the Salem trials to present day trials (Ceci et al. 1990 ; Doris, 1991). It is held that children are very

susceptible to suggestion by leading questions. Even innocent attempts to elicit information from a child can lead to unintentional exposure to the biases and preconceived notions of the interviewer (Zaragoza, 1991). However, recent research has demonstrated that children as young as four years of age may be far more resistant to such suggestion than previously believed - especially when the suggestion concerns actions associated with abuse (Goodman et al. 1987; Neisser, 1990), or past events of importance to them (Fivush, 1993).

Where questions refer to central events and actions that lie within the child's understanding then suggestive questioning is likely to be rejected. Goodman et al.'s (1990) study found support for the claim. Children are only more susceptible than adults to leading questions about information that they typically are less likely to have available to begin with (Johnson & Foley, 1984). Comparing adults to children - if an event is understandable, interesting and/or personally significant, and their memory for it is equally strong, then age differences in suggestibility may not be found (Ceci et al. 1990).

Using certain words can affect a witness's memory of an event (Loftus & Palmer, 1974), however, this has only been demonstrated with adults to date. If a suggestive connotation is attempted through the subtle use of language, or if well developed knowledge structures are required to comprehend the suggestion, then children may actually be less easily influenced than adults.

If an event involves features in relation to which a child is particularly knowledgeable, they may have better recall than an adult (Naylor, 1989a). A number of studies conclude that there is no clear relationship between age and susceptibility to leading questions (Saywitz, 1987; Zaragoza, 1987), while others have found suggestibility to decrease with age (King & Yuille, 1987). There appears to be no age differences found in the tendency to incorporate misleading information nor any age differences in performance as a function of age in response to direct questions about an account.

Just as adults have been shown to be more suggestible when responding to someone they perceive as being in authority over them, so too can children be particularly suggestible when they are being asked leading questions by an authoritative adult (Ceci & Bruck, 1993; Goodman, 1984), and for children this is a larger class of people than for adults. Children believe that adults are more knowledgeable, which contributes to a power imbalance that is often evident in adult/child conversations. In addition, some children may try to provide the answers they think adults want,

›articularly when the context is unfamiliar (Flin, 199; King & Yuille, 1987). They ∧ill draw on all available cues, including the presumed better knowledge of the ąuestioner/adult, to make sense of the situation. They may also be aware that they are doing this (King & Yuille, 1987).

The ecological validity of many studies regarding children's suggestibility has been criticised, not because the studies are done within or outside the laboratory, but rather because of the extent to which the causal mechanisms fit into the real-world events of natural settings (King & Yuille, 1987). Whether children are more or less suggestible than adults depends on the interaction of age with a variety of other factors (Saywitz, 1987). Factors such as attention, comprehension and interest (Loftus & Davies, 1984) the credibility of the misleading source and the degree of pressure to conform (Zaragoza, 1987); participating versus watching; the effects of long delays and how the children interpret the actions (Goodman & Clarke-Stewart, 1991), will all have some proportion of impact on children's suggestibility. As Spencer & Flin (1990) conclude "While attempts to measure children's susceptibility to suggestion when being questioned on their memory for stories and pictures may have theoretical value, these laboratory experiments represent too few of the relevant characteristics to be of forensic significance. "(p.253).

Memory and Stress.

Relatively few studies have examined the effects of stress on a child witness's testimony. Most studies have looked at adults within a laboratory setting. Despite the widespread belief that increased levels of stress improve perception and recognition, it is well documented that the contrary is true (Peters, 1991; Wells & Loftus, 1984). It has been found that stress can affect recall at the retrieval stage in both adults and children. Dent and Stephenson (1979) found that both adults and children made fewer correct identifications in stressful situations (live line-up) than when looking at colour slides. Other studies done have found incorrect identification to increase with anxiety levels (Chance & Goldstein, 1984). This would increase the risk of charging an innocent person and suggests that urgent changes to the system of identification are needed.

Stressful events at the time of acquiring memory, such as children who witness the sexual assault of their mothers, can suffer misperceptions of the duration and sequence of events (Pynoos & Eth, 1984; Pynoos & Nader, 1988). This does not necessarily mean the child's evidence is valueless, provided there is some consistency in the detail provided. For some children such stressful events may not

be talked about at all for some time. Methods for helping children deal with these memories are important, especially in facilitating the capacity of a child to give evidence, and to begin therapeutic recovery as well.

Examining the relationship between stress and memory in children is difficult, as experimental ethics rightly constrain psychological investigation. Many recent studies have examined the effects of naturally occurring stress and indicate that there is no evidence that children's recall of stressful events is more or less accurate than their recall of comparable events (Goodman, Hepps, & Reed, 1986). Goodman, Aman and Hirschman's (1987) study of three and six year old children's recall after a visit to a medical clinic, where half the subjects received an innoculation and half got a sticker tattoo put on their arm, found no difference in the subject's accuracy of either event. This runs contrary to typical findings with adults. Peters (1987) examined three to eight year old children's memory for a visit to the dentist with a focus on children's subsequent ability to recognise the dentist's face from target-present and target-absent line-up photographs. He found some support for the claim that children's memory suffers when they are frightened or anxious, however, only some of the measures were related to anxiety. Many children visit the dentist for check-ups and teeth-cleaning, thus anxiety levels may not have been very high. More recent studies by Goodman et al. (1990) looked at four and seven year old children's memory for stressful medical procedures (an innoculation), and found that high levels of stress actually had a facilitative effect on children's memory, however, stress levels had to be very high for the beneficial effects to be evidenced. Stress ratings were coded on a scale ranging from low stress levels at 1 (very happy or very relaxed) to high stress levels at 6 (very unhappy or very frightened). When a follow-up was done one year later, the children showed a significant decrease on several memory measures, including suggestibility, but there was no evidence of an increase in incorrect information recalled, or false reports of abuse. This study has important implications for legal practices, as it suggests that high stress levels facilitate recall of events, and that young children are very clear, even after a long time, about whether abuse occurred or not. Criminal acts that lead to children becoming witnesses are usually stressful at the very least, and often may be terrifying.

Stressful aspects of real crimes on child witnesses have been examined in two studies, albeit sometime after the event. In the first case, of a Californian mass-kidnapping, 26 children (5-14 years) were travelling home in a school bus when they were abducted with their driver and driven around in darkness for 11 hours before being buried in a truck trailer for 16 hours until they finally escaped. Terr (1980)

conducted a series of interviews with them five - thirteen months later and reported that "even though the child may misperceive who did it and in what order it occurred, all the incidents are remembered. There is no amnesia." (Terr, 1980, p.213). Terr also points out that similar disordered perception may occur in adults who have experienced exceptional fear.

The second study by Pynoos and Eth (1984), involved more than forty children who had witnessed the murder of a parent. They were interviewed and the researchers concluded: "The dramatic nature of a parent's death causes multiple, enduring effects on the memory content and function. In our opinion, the child witness to homicide remembers certain details vividly." (Pynoos & Eth, 1984, p.95). Moreover, exploring these memories with a trained interviewer facilitates the child's recovery.

Keeping Secrets.

Much concern about children's testimony has focused on whether children are likely to make errors concerning events that did not happen. In a legal context this is particularly serious as wrongful convictions may result. However, as Pipe (1993) points out, little attention has been paid to the possibility that children may intentionally omit information from their reports, or there may be age-related changes in their willingness to report information. This appears to be a changing perspective with many researchers now looking at the conditions surrounding children's reports of witnessed events, and the factors that facilitate or inhibit truthfulness.

Children may conceal information to protect another person, or because of threats to themselves or others. In the context of sexual abuse, children may be embarrassed to report the things that happen, and this may be especially true for male victims (Watkins & Bentovim, 1992). Children are also likely to have been threatened or bribed not to tell about the abuse (Sgroi, Blick, & Porter, 1982). There are only a few studies which have examined when children are likely to conceal information and keep it secret (see Pipe & Goodman, 1991, for a review). The opportunities to study this issue in naturalistic settings is rare, however, those few studies suggest developmental changes in children's willingness to conceal information. In particular five or six year old children are particularly willing to keep secrets, even if the incident is trivial and the person asking is a stranger (Pipe, 1993; Pipe & Wilson, 1993; Wilson & Pipe, 1989). Moreover, very young children may be significantly less likely to conceal information than five year old children

(Bottoms, Goodman, Schwartz-Kenney, Sachenmaier, & Thomas, 1990; Bussey, 1990).

Whether or not children conceal information is likely to depend on a number of motivational factors. More recently there has been rising concern over the role of social and motivational influences on the children's reports (Bussey, Lee, & Grimbeek, 1993; Davies, 1988). When interviewing children in actual child sexual abuse cases, children's memory is important, but so too are the social and motivational factors that are likely to play a role (Goodman, 1984; Melton & Thompson, 1987; Pipe & Goodman, 1991). Factors affecting the concealing of information include whether children have been threatened or bribed, the nature of the incidents being asked about and the perceived consequences of telling the truth (Bussey, 1991; Bussey et al. 1993). Even though children's ability to report events completely and accurately often increases with age. Social and motivational factors can effect children's willingness to repeat information. This may result in children being less forthcoming witnesses than they are capable of being, and it is possible that, depending on the force of these factors impinging on a child, they may reverse or eliminate the apparent age advantage of older children compared to younger children (Bottoms, Goodman, Schwartz-Kenny, Sachenmaier, & Thomas, 1990). Bussey et al. (1993) conclude that "professionals and parents who provide situations that facilitate truthfulness, say by appropriately reassuring children about the positive outcomes of disclosure, will be more likely to obtain truthful and complete testimony from children." (Bussey et al. 1993, p. 165).

Credibility.

A child's credibility is affected by a number of factors. Legal procedures have been particularly controversial in regard to their effects on children's perceived credibility; competency examinations, requirements for corroboration of a child's statements and jury instructions which warn jurors of children's presumed inabilities (Selkin & Schouten, 1987) all have detrimental effects on children's credibility.

As far back as 1911, the idea of a child being a credible witness has been assessed in terms of their suggestibility. As recently as 1976, a statement was made from the bench at the Old Bailey :

" It is well-known that women in particular and small boys are liable to be untruthful and invent stories."

SOURCE: Mr Justice Sutcliffe, Old Bailey, 8 April, 1976; Cited in Oates, (1990).

A number of studies indicate that child witnesses are viewed as less credible than adult witnesses (Goodman et al. 1984; Goodman et al. 1987). Although 30 year olds are considered more credible than six year olds (Leippe & Romanczyk, 1987) and that ten year old children's credibility falls somewhere between the other two bystander witnesses' credibility ratings, no significant effect of eyewitness age on guilt ratings has been found. That is, regardless of a jury's credibility rating of a witness, their rating of the defendant as guilty does not change (Ross, Dunning, Toglia, & Ceci, 1989). The same results were found regardless of sample testing (college students or a more homogeneous group), the type of trial presented (vehicular homicide versus murder), or the medium employed (written trial details versus videotaped mock trial) (Goodman, Golding, Helgeson, Haith, & Michelli, 1987).

Other researchers report that children are seen as no less credible and may in fact be seen as more credible than adults (Ross, Miller, & Moran, 1987). Flaws in much of this research has made these findings questionable, however, other revamped studies have replicated the findings (see Ross et al. 1987, for a review). In assessing the inconsistencies that have arisen on this matter, Goodman et al. (1989) propose that jurors' theories of young children's honesty and cognitive abilities have much influence on the perceived credibility of young children. It may be likely that inconsistencies in these results can be attributed to witness sampling.

Research has found that young children's lack of cognitive sophistication seems to result in lowered credibility. Two common denominators of studies have shown that 1/ Witness credibility seems to rely on jurors' perceptions of the accuracy of memory, and 2/ young children (that is, below the age of seven years) serving as witnesses. It has been shown that when the witness is older he/she may be seen as quite capable of providing accurate testimony (Ross et al. 1987; Wells, Turtle, & Luus, 1990).

In other cases, children's lack of cognitive ability has been found to actually enhance their credibility (Ross et al. 1987). Goodman et al. (1989) found that subject jurors seemed to believe that children lacked the ability to invent a sexual assault or planned revenge. In addition to cognitive ability, honesty appeared to be of some importance. Children are perceived as more honest than adults. As mentioned earlier, research indicates that children, by at least four years of age, can be quite accurate in reporting the main actions witnessed or experienced in real life events (Goodman et al. 1987). Young children are also surprisingly resistant to suggestive questioning concerning actions associated with abuse (Goodman et al. 1990).

Children's credibility is generally regarded as being dependent on a number of factors. Five factors that have emerged corresponding to jurors' estimates of witness credibility include :

- children's accuracy and confidence in answering questions.
- children's suggestibility - i.e.. their consistency and truthfulness.
- children's accuracy from identifying a person from a line-up.
- children's ability to provide accurate testimony compared to that of adults.
- children's attractiveness.

Wells et al. (1990) endorse this, suggesting that one should not be concerned with age in predicting credibility of a witness, and that confidence of the witness is probably a more powerful predictor (Luus & Wells, 1992). Ross et al. (1989) suggest that, if jurors expect to see certain characteristics, they often see it, (for example, dependence of a child) and judgment assimilates towards the relevant stereotype. They also suggest that a witness's credibility rests on : a) the expertise of a person, and b) their sincerity; and that the relative impact of child and adult testimony depends on which of these components (expertise/ sincerity) is most salient in the trial. It has also been suggested that a negative stereotype of children exists (Goodman et al. 1987). If the stereotype of a child is violated, then a juror may be more likely to perceive the child as more credible.

Possibly the real issue for psychological research on child witness testimony is not the child's accuracy but jurors' ability to reach the truth. The research to date, with a few exceptions, has been limited to jurors' ability to distinguish accurate from inaccurate testimony given by adult bystander witnesses (see Melton & Thompson, 1987, for a review). Research indicates that subject jurors often over-estimate the accuracy of a child's eyewitness testimony, placing too much emphasis on the confidence of the witness. They also over-estimate a child's ability to resist suggestion (Goodman et al. 1989). In contrast, at least on some tasks, for example, answering questions about witnessed events, the abilities of child witnesses may be under-estimated.

It is important to note that many of the studies that have looked at predictions of children's accuracy have examined bystander witnesses (Lieppe & Romanczyk, 1987), thus, being difficult to generalise results to that of experiential witnesses. Leippe, Manion and Romanczyk (1993) report a set of studies of both actual and perceived accuracy of child witnesses. Jurors, they found, may be quite fallible in their evaluations and judgments of child witnesses. Given this finding, it is important to explore factors other then the child's actual accuracy that contribute to case decisions. Factors, such as age of the witness and the responsibility attributed

to the victim - for example, assigning blame prejudicially to older versus younger complainants who allege abuse, are often taken into consideration by subject jurors in reaching a decision of guilt (Isquith, Levine, & Scheiner, 1993). However, children who testify in court about sexual abuse are more likely to be victim-witnesses, and again this may affect jurors' ability to predict the accuracy of a child's testimony.

A problem with much of the research done is the ecological validity. The decisions made by mock jurors in laboratory studies do not affect actual child victims or defendants. It may be more difficult to place faith in a child's testimony when this may result in an adult serving many years in prison. Thus, regardless of the findings of research, in an actual case the fear of convicting an innocent person may make jurors more likely to question a child's word and vote 'not guilty' after a child takes the stand. Perceived credibility of a child victim may be affected by underlying determinants of individual differences in jurors' perceptions of child sexual abuse victims. Factors including jurors' attitudes toward: 1) children's general believability; 2) women and feminism; 3) adult/child sexuality; 4) sexuality in general, as well as empathy toward the victim, may determine their perceptions, evaluations and judgments in cases of child sexual abuse (Bottoms, 1993). Here, developmental understanding and expectations of jurors are possibly more crucial factors determining the outcome than a child's ability to testify as miniature adults (De Young, 1987; Flin, 1988). Allowances need to be made for their cognitive level in order to increase a child's credibility upon disclosure of sexual victimisation.

Stress Associated with Testifying.

There are two aspects to stress factor; 1) stress at the time of the crime, and 2) stress during the police investigation and the trial. Every individual responds differently to stress. The amount of stress associated with the legal process from the event itself to the interviews and appearances in court will affect different people in different ways. Research suggests that child victims of sexual assault present emotional reaction patterns and court procedures may impair the resolution of these patterns (Weiss & Berg, 1982). In addition to this court proceedings are also considered stressful for child complainants because their understanding of what is involved is often limited. It must be noted that often children do have an understanding of what courtrooms look like and how they function from watching television, which tends to portray over-dramatised scenes from American courts (Flin, 1988). Studies relating to children's knowledge of court proceedings have shown clear deficits in

knowledge as well as frequent misconceptions regarding legal personnel and procedures (Flin, Stevenson & Davies, 1989).

Some of the more obvious stress factors include :

* "Everything".
* The degree of intimidation used in an attempt to silence the child.
* The attempts of defending lawyers to discredit the child at the hearings.
* Being examined and cross-examined.
* The threatening presence in court of the accused.
* The strangeness of the situation and the legal terminology.
* Waiting - long delays in proceedings.

In the interests of justice, these adverse effects should be minimised (Oates, 1990 ; Taylor et al. 1990). Telling a story of abuse or any other victimisation in court, and the long and drawn out process of prosecution, are traumatic experiences for a child of any age. Children may be especially likely to be emotionally distressed by courtroom confrontation with the alleged abuser (see Flin, 1993, for a review; Goodman, Levine, Melton & Ogden, 1991). It is hardly surprising that studies have found children frightened, disturbed, feeling guilty and betrayed sometimes. Many factors about giving testimony have not reached any conclusions about the effects. However, an exhaustive number of suggestions have been posited in efforts to reduce stress on a child giving evidence and revictimisation in the courtroom, including:

* Interagency co-operation between law enforcement, welfare and child protection authorities;
* pre-trial courtroom orientation;
* the set-up of the courtroom and adjoining rooms so that the victim does not have to pass by the defendant;
* altering the competency law;
* allowing a child to be examined by a magistrate where a court appearance may involve serious risk to his/her health;
* allowing video-technology to be used in court;
* allowing young children to be questioned at trial by someone other than one of the lawyers in the case, as they are often reluctant to talk to strangers;
* professional involved with the child being continuously available to the child during the trial;
* leaving the child's testimony to last, and
* Judges ensuring a fair trial

(Bernstein, 1982; Flin, 1993; Flin, Stevenson, & Davies, 1989; Gabriano & Stott, 1989; Gallet, 1989; Keeney, Amacher, & Kastanakis, 1992; Lloyd-Bostock, 1988; Moston,

1992; Moston & Engleberg, 1992; Naylor, 1989a, 1989b; Oates, 1990; Spencer, 1987a, 1987b; Spencer, 1988; Taylor et al. 1990; Vizard, 1992; Warner, 1988; Williams, 1987a).

All these recommendations above suggest the need for specialised understanding and training regarding child witnesses, and the investigation and handling of sexual abuse cases. Special consideration has been given to the demands and problems encountered by children who testify in court. Saywitz and Snyder (1993) discuss techniques to improve children's testimony by preparing them for what to expect and how to react to the unnatural context of the courtroom, including how to use strategies to repeat information accurately and completely, and how to recognise and respond to developmentally inappropriate and suggestive questions. Similarly, Kenney, Amacher, and Kastanakis (1992) describe the procedures used in Alabama, USA, with groups of child witnesses to prepare them for going to court. This programme is based on the premise that fear of the unknown causes stress and involves a continuum of supportive therapeutic contacts from initial investigation, through assessment, treatment and resolution in the legal system.

The establishment of a victim witness programme in Texas proved to have several important outcomes for the victims of child sexual abuse (Dible & Teske, 1993). The introduction of the victim witness program resulted in the success rate at trial for cases of child sexual abuse to be doubled (38 per cent to 72 per cent); defendants were more likely to either plead guilty to or be convicted of more serious charges of sexual assault against a child; and the penalties against offenders increased significantly (Dible & Teske, 1993). This study certainly implies the advantages of employing specialist help to investigate cases of child sexual abuse and to assist the children with their preparation for trial.

Dezirek-Sas (1992) discusses the results from a Canadian project which examined the effects of preparing child sexual abuse victims in Ontario for testimony. It was found that a number of negative, unintended consequences result from attempts to help sexually abused children. These included throwing the child into a system which is extremely slow moving, requiring frequent recall of the abuse. This can often lead to stigmatisation through public exposure, and exacerbate feelings of self blame, feelings of guilt and fear during cross-examination. However, positive aspects were also noted where empowering of the children reversed their feelings of helplessness and provided a public affirmation that the child was not responsible for the abuse. For some children it signalled the beginning of emotional recovery. Unfortunately, the factors that influence the positive and negative outcomes cannot be controlled. However, it appears that the strongest effective tool for assisting

children through this process is via preparation using education, stress reduction and empowerment to help child witnesses cope with the Criminal Justice System.

Pre-trial Investigations.

One particularly important way of reducing stress seems to be to provide assistance in techniques of talking with and questioning children by those whose work brings them into contact with children. Research makes it clear that caution should be taken when questioning young children. Studies have shown that eight to twelve year old children are as accurate as adults in recalling a life event by free-recall or in response to general open-ended questions, but that children are less accurate when asked a specific question, for example, 'What did she look like?' versus "What colour was her hair?' (Taylor et al. 1990). Full consensus suggests that people interviewing children should avoid using leading questions, and will get better responses using open-ended questions (Vizard, 1992). Specific questions should only be used as a last resort. Common semantic cues, such as questions about the weather or clothing, may elicit additional accurate information from children (Saywitz, 1987) However, for very young children, prompts and cues may be required to obtain what little information they will give.

Investigations and prosecutions should be carried out by professionals trained in child development (Berliner & Barbieri, 1984). However, it is clear that experience alone is not always sufficient (Aldridge, 1992). It seems that whatever the area of expertise repeated opportunities to practice is most important. Aldridge (1992) points to the need for well researched and evaluated professional training programmes to provide the theoretical base to move toward in the area of training for interviewers. This extended by Geiselman, Saywitz, and Borstein, (1993) who favour the use of cognitive questioning techniques such as, mental reconstruction of the environmental and personal context, recounting the events in various orders, reporting events from various perspectives and being complete regardless of importance. However, they also stress the need for children to practice these techniques regularly to increase recall. Yuille, Hunter, Joffe, and Zaparnuik (1993) also outline empirically derived techniques designed to obtain the most complete and accurate reports from children with minimal suggestion, but caution that training of professionals in any technique is only effective if the techniques are supported by the agencies employing the professionals. They go on to elaborate the need for interagency co-operation and similar training.
Questions can be structured around themes or places to provide cues. Supplementary data about the child's family, patterns of day-to-day activities and

other relevant details can be used not only to aid the interviewer in directing the questions, but also to reassure the child (Marsh, 1991). Pynoos and Eth (1986) discuss a technique used for interviewing traumatised children. They suggest a format of permitting the child to express the trauma through play and fantasy firstly, then shifting attention to the event itself in order to master coping with traumatic anxiety. Finally, the child has the opportunity to discuss any current life concerns. The debate of whether to use structured interview techniques or not seems to depend on the particular approach of the interviewing team (Vizard, 1992). The initial interview should be held as soon as possible after the offence and videotaped to obtain the freshest recollection, with the least risk of corruption by information from other sources such as family, lawyers or the media. Not only does this allow the defence and court to see how the child evidence was obtained, it may also spare the child from repeating their story numerous times in interviews (Oates, 1990). Certainly the number of interviews should be kept to a minimum.

It has been suggested that multiple inquiries can induce a recovery of target memories, but it is important to guard against the possibility of repeated questioning contributing to an alteration in the content of the reported memories (Brainerd & Ornstein, 1991). Generally it has been found that repeated questioning of a witness can be both damaging to the emotional well-being of a witness, and to the quality of their evidence (Flin, 1991).

Interviewers need to have some understanding and specialist training in developmental issues pertaining to children, especially with respect to the concrete way that children think. One must remember that, when questioning young children, they are extremely literal in their answers to questions. This can lead to situations in which adults think the child is being self-contradictory when he/she is simply being concrete. Those involved in the judicial process need to be alerted to such child-adult misunderstandings. An interesting example from a case of a five year old child on direct examination shows the types of misunderstandings that can occur:

On cross-examination by the father's lawyer, the following exchange took place ;
Lawyer: And then you said you put your mouth on his penis?
Child : No.
Lawyer : You didn't say that?
Child : No.
Lawyer : Did you ever put your mouth on his penis?
Child : No.

Lawyer : Well, why did you tell your mother that your dad put his penis in your mouth?
Child : My brother told me to.

At this point it appears that the child has contradicted her earlier testimony which was fabricated because her brother told her to. However, the lawyer for the prosecution recognised the problem and clarified the situation :

Lawyer : Jennie, you said that you didn't put your mouth on daddy's penis. Is that right?
Child : Yes.
Lawyer : Did daddy put his penis in your mouth?
Child : Yes.
Lawyer : Did you tell your mom?
Child : Yes.
Lawyer : What made you decide to tell your mom?
Child : My brother and I talked about it, and he said I better tell or dad would just keep doing it.

(Source : Berliner and Barbieri, 1984.)

Because of their developmental level, limited coping skills or fear of reprisal, many young children are either unable or unwilling to verbally describe their experiences. A very young child will not necessarily answer questions directly, and it takes a skilled and understanding interviewer to direct the interview towards gathering information. Children under three years of age tend to play alongside rather than with other children and it can be difficult to engage their attention which is largely self-absorbed; three and four year old children are more likely to ask than answer questions, and all pre-schoolers require elements of fun and play in what they do, not only to hold their attention, but also to feel at ease. As a child grows older their attention span increases but it is still linked to the child's interest and ability (Marsh, 1991). A great deal of information may be gathered from art and play techniques. The use of anatomically detailed dolls, dramatic play, dolls, puppets or materials that promote self-expression like play-dough may provide direct or indirect evidence, however, this requires skill on the part of the interviewer to present the activity and interpret the results.

There has been a lot of concern about questioning with anatomically correct dolls as an aid to sexual assault case interviews (Goodman & Aman, 1990). These dolls have

been used in assessing differences in the responses of abused and non-abused children, to assess whether or not they can help predict sexual abuse. One inherent methodological flaw in many of these studies is that it is impossible to know if the allegedly non-abused children have been abused or not. It has been shown that children as young as three years old, interviewed with anatomically detailed dolls, regular dolls or no dolls, were not influenced into making incorrect responses to specific and misleading abuse questions because of the dolls (Goodman & Aman, 1990). The preponderance of research supports the use of anatomical dolls as an interview tool, but not as a "litmus test" for sexual abuse (see Boat & Everson, 1993, for a review). It is important to remember the effectiveness of any tool is contingent upon the skill of its user.

It appears that the interviewer skills are of most concern, especially as leading questions can provide misleading information (Marsh, 1989; Ornstein, 1991). An interviewer can guide with leading questions. Another concern with the doll interviews is that the doll's genitalia may attract the attention of the child and produce play that involves these "interesting extras" not usually found on dolls (Lloyd-Bostock, 1988). Basically, data from such an interview is useful if incorporated with other information. Certainly standards need to be recognised and clear explanations given about the use of these dolls, emphasising the caution and care that needs to be considered when conducting these interviews because of the potential traumatic effects they may have on the children subjected to them.

There appears to be a need to find techniques which permit the discrimination of valid statements from fabricated ones (Glaser & Frost, 1988; see Steller & Boychuck, 1992, for a review; Wehrspann, Steinhauer & Klajner-Diamond, 1987; Vizard, 1992). This problem has been addressed with the development of various measuring tools such as Statement Validity Analysis (SVA) (Raskin & Yuille, 1989; Yuille, 1988), Criterion Based Content Analysis (CBCA) (Raskin & Esplin, 1992) and Statement Reality Analysis (Undeutsch, 1982). These scales are most often used to corroborate children's statements in cases where abuse actually did occur, while at the same time enabling an interviewer not to overlook indicators of possible false accusations. Expert witnesses in the form of social workers , psychiatrists and psychologists give evidence in court relating to the significance of the child's testimony, explaining the nature of abuse and the behaviours associated with it (Levine & Battisoni, 1991; Levy, 1989; Summit, 1983). The use of tools, such as those mentioned above, are helpful for experts when having to relate their evidence to empirically based data, as well as providing a semi-structured method of systematically obtaining information from children.

Unfortunately the delay that occurs in proceedings may have significant effects on a child witness. Child witnesses can wait many months, even years, from the time of the incident to being examined in court (see Flin, 1993, for a review). Not only does recall become more difficult with time, but there may be instances where the child is kept 'on call' for months, especially if the case is adjourned to a later date. By the time of the actual appearance the child may be so traumatised by this process that both the testimony and the child's credibility may suffer. The need for a child to remain a 'good' witness throughout this period can conflict with the child's need to overcome the emotional trauma of the abuse/victimisation. Hence the therapeutic process must begin at this stage, although it is often difficult to involve a child in constructive therapy while the case remains unresolved (Taylor et al. 1990).

Courtrooms.

Much of the courtroom setting is not designed to accommodate children and many suggestions have been made for improvements in court procedures and settings in order to reduce the stress for children. Sharp (1989) cites some of the suggestions proposed by the Scottish Law Commission in Discussion Paper No.75 (1988)

1. Children should be permitted to give their evidence sitting at a table in the well of the court, the table should be arranged to ensure that the defendant is behind the child and well out of his/her line of vision.
2. Judges, counsel and solicitors should be required to remove their wigs and their robes when a child is giving evidence.
3. The clerk of the court should make every effort to ensure that a trial involving a child takes place in the smallest, least intimidating courtroom.
4. Prosecutors should take the child on a pre-trial tour, showing the courtroom and explaining who will be at the trial.
5. Sound amplification systems should be installed to avoid the child being asked repeatedly to 'speak-up'.
6. The Judge should be required to clear the courtroom when a child gives evidence.

These ideas have also been noted by others, endorsing the idea of orienting the courtroom to suit the child's needs first (Gabriano & Stott, 1989). A recent study by Flin, Bull, Boon, and Knox (1992) observed 89 children in the Glasgow courtrooms from ages five to fifteen years, all of whom were victim witnesses, but not all for sexual abuse cases. They found that 64 per cent gave evidence on the day they were told to attend court and five per cent the following day. Thirty-one per cent

attended court a day later. There were no provisions available for live-link television (closed-circuit television), and there were only two cases where the accused was behind a screen. Thirteen of the child witnesses were permitted to give evidence out of the witness box. They found that 38 of the children were examined in front of more than 40 people. They also found that special measures were adopted sporadically and often depended on the view of the judge. Most of the children were questioned by the judge about competency to give evidence, but none of the five to eight year old children were asked to take an oath as were the older children. Sixty-five per cent of the children were cross examined by more than one defence lawyer each lasting an average of ten minutes (one to 59 mins.). Evidence-in-chief lasted an average of 16 minutes and re-examination lasted 4.5 minutes on average for the child witnesses.

Flin et al. (1992) also found that the majority of children were asked age-appropriate questions (85 per cent). They found that the children rarely said they did not understand a question, although 40 per cent of the children replied "I don't know", which is sometimes given as a response by children when they do not know, but are not prepared to say, or do not understand the question. Only six per cent of the children expressed uncertainty in the content of their answers. The problems with comprehension tended to be with the older children, as lawyers appeared to be conscious of the need to keep questions simple for the younger children. Linguistic difficulties have been noted regarding cross-examinations (Brennan & Brennan, 1988), and more attention needs to be paid to the questioning techniques and language used in court to test children's evidence (Cashmore, 1991). This is especially important in sexual abuse cases where the child's terminology for body parts can be very different from that of an adult (Dezwirek-Sas, 1992; Goodman & Aman, 1991; Schor & Sivan, 1989). Questions in the stages of proceedings relevant to the incident were found to be 93 per cent for direct examination, 83 per cent for cross-examination and 89 per cent for re-examination. This may not be the same for children of abuse or more serious types of offences.

The demeanour of the child during the trial was also examined and found that the majority of children were not obviously upset. It was found that eight to fifteen year old children were more likely to become upset, five of whom cried at direct examination. They found that the majority of children were not overwhelmed by the court proceedings, however, these children were not necessarily testifying about sexual abuse which is much more embarrassing and stressful.

Video Technology.

Along with all the general debate and discussion about children as witnesses comes one of the most controversial issues to emerge from this concern over the plight of child witnesses - video-technology in the courtroom. The potential advantages of video-technology as a facilitator for children required to testify in court have been tirelessly campaigned for by those who see the practical benefits of such a system (Bernstein & Claman, 1986; Bulkley, 1985; Colby & Colby, 1987; Libai, 1969; Spencer, 1987a; Williams, 1987a).

The role of video technology can be used in two ways - firstly, at the trial itself to allow the child to testify via closed circuit television (CCTV) outside the arena of the courtroom; this is referred to as video or live-link: and secondly, it can be employed to pre-record an interview with the child which can then be used to complement or substitute for the child's actual appearance in court; this use of pre-recorded material is referred to as videotapes or video recordings.

The primary reason for using video technology is to assist children, who are victims of abuse, in the courtroom. The particular difficulties children experience in testifying effectively in court can be partially alleviated by the use of video evidence. The live link has the advantage of avoiding a confrontation with the defendant, one of the major fears expressed by child witnesses who appear in court (Goodman, Jones, Pyle, Prado-Estrada, Port, England, Mason, & Rudy, 1988). Moreover, by testifying from a small room with social support (Moston, 1991; 1992), anxiety about speaking out in court, with its often intimidating, adult setting, may be reduced (Davies, 1991).

A videotape also offers an immediate opportunity to capture a child's first-hand account of the events as soon as an allegation is made. This recording can then be retained and produced later, such as at trial, obviating any long delays which may arise between initial report and the case coming to court (Davies, 1988; Spencer & Flin, 1990).

The use of video evidence has other advantages, including the ability to reduce stress levels for children when they are recounting events by being in comfortable surroundings and in a calm atmosphere. The interview with the child is on a one-to-one, face-to-face situation and not just a face on a screen. The interviewer is accustomed to dealing with children - understanding their needs and developmental level - defence lawyers usually lack this understanding but use the

child's limited understanding to prove their case (or disprove the complainant's evidence) (Brennan & Brennan, 1988).

Another advantage advocated is that the videotape of a child's evidence made prior to trial can be viewed by the defendant, which may result in an admission of guilt, and thus save the need for a trial (Chaney, 1985; Goodman & Helgeson, 1988; Smith, 1988). A lot of distress can be avoided by this method. It has also been suggested that, by presenting the videotaped evidence, a child need not have to repeat the story if other defendants are added (Williams, 1987a).

The final advantage Williams (1987) points to is that, once evidence is recorded on videotape, the process of therapy can begin without the long delays or the stress and threat of setbacks imposed by courtroom appearances. However, Williams' idealist notion for the use of video evidence includes the child complainant never having to appear in court, let alone ever being cross-examined by defence and re-examined by the crown.

The apparently powerful arguments have not gone unchallenged, and many lawyers and psychologists, are unconvinced that the theoretical advantages can be implemented in practice, and question the empirical basis of these assertions for the value of video technology empowering child witnesses (Grant, 1987; King, 1988; Wilson, 1990).

The Live link or CCTV.

Closed-circuit television systems (CCTV) are used to separate the child physically from the accused during appearances at trial, and was pioneered in the United States (Davies & Westcott, 1992). In 1983 the use of this provision was introduced and now some 29 States have such legislation (Cashmore, 1990; Spencer & Flin, 1990). Subsequently Canada, Australia, the United Kingdom and New Zealand have moved to permit testimony to be given in this way. However, the form of the link and the range of cases for which it is permitted vary widely.

In New Zealand the more common form is used whereby the child complainant/witness testifies from an adjacent room with the television picture being relayed to the main courtroom. The link can be either one way or two way. In New Zealand a two way link is used, providing for the child and the person who is questioning them to be seen. Although the one way link has been used in the United States to ensure the child never needs to see the accused throughout his or

her testimony, it has led to successful legal challenges on the grounds that the defendant's rights to brief counsel were violated (Grant, 1987). It has also been a contentious issue that it violates the defendant's rights according to the Sixth Amendment in the United States Constitution which guarantees the right of the accused to face in person his or her accuser at trial (Whitcomb, 1990). The two way link is seen as overcoming this problem (Davies & Westcott, 1992) but involves careful selection of camera angles, possibly combined with some minor modifications to the architecture of the courtroom to ensure the child never sees the alleged offender.

There are variations in the circumstances under which a CCTV link is utilised and the age group to which the provision applies. In New Zealand, as in most court systems, the technique is employed for victims of sexual offences, however, some allow its use for both physical and sexual assaults (Davies & Westcott, 1992). The variation in age limits which the provision covers ranges from an upper age limit of ten in some US states (California) to 18 years in Australian Capital Territory (Cashmore, 1990). In New Zealand the option is available to any complainant who has not, at the commencement of the proceedings, attained the age of 17 years (Evidence Act, 1908; s 23 B). This provision came into effect on the 1 January 1990, however, the court systems were not equipped to use the system until April 1991.

The circumstances under which the link may be employed vary also. In some states of America it is necessary to show that the child will suffer severe emotional damage by testifying in open court (Davies & Westcott, 1992). As Spencer and Flin (1990) note, the establishment of this may be more traumatic than a court appearance. In New Zealand an application to the judge of the court must be submitted prior to the trial "for directions... as to the mode by which the complainant's evidence is to be given at the trial." (Evidence Act, 1908; s 23 E).

Closed-Circuit Television as Evidence.

Effects on the Child.

The issues relating to the benefits of CCTV for children have focused on stress alleviation, clinical studies and research findings. The basis of much of this research focuses back to studies indicating that children often feel intimidated by the presence of the defendant and by being in the courtroom (Flin, Stevenson, & Davies, 1989; Spencer & Flin, 1990; Whitcomb, Shapiro, & Stellwagen, 1985). However, for some children, testifying in court may not be traumatic and may be a

helpful and powerful experience (Melton & Thompson, 1987). For some victims testifying in court can show the defendant that they are not intimidated and can stand up and tell the truth. Cashmore and Cahill (1990) describe a Perth pilot study where five children were in favour of the system (with the accused removed from the courtroom) but two would have preferred the 'respondent' to be present in court. (Cashmore & Cahill, 1990). Concern has been expressed that children may feel isolated by being in a separate room. These issues highlight the need for taking into account the child's wishes. In New Zealand this is of paramount importance in considering the mode of evidence used in court. However, this is not typically considered in other parts of the world (Cashmore & Cahill, 1990).

Flin et al. (1992) found that a large percentage of children who appeared in court did appear to be tense and unhappy while giving evidence and suggest that, in cases where children are giving detailed evidence about violent or sexual crimes, they be allowed to do so in a more informal, private context than the courtroom, which would have beneficial effects on not only the child, but the quality of the evidence they provide also.

Effects on Quality of Evidence.

Little research has been published on the impact of the live-link on child witnesses. Cashmore (1990) noted one of the major claims for the use of CCTV is that the child who is isolated from the courtroom will be more relaxed in giving its testimony, and will provide a more confident, comprehensive account of the event(s). Two studies have examined the empowering effects of CCTV for young child witnesses, both with equivocal results. Hill and Hill (1987) compared the quality of testimony given by child witnesses who were questioned about an argument seen on television. Subjects were questioned in either a big room or a small room similar to that typically employed in a video link case, or in a courtroom in the presence of the accused (an actor), judge and counsel. They reported that, although not significant difference, children gave more complete and accurate information in the small room and were less nervous and anxious during the time, compared to the other conditions.

In another study by Westcott, Davies and Clifford (1991a), the quality of evidence concerning a staged event produced by children in two age groups was compared. Children of seven to eight years or ten to eleven years were questioned either face to face or via live-link. Older children reported more information and were more accurate (as might be expected) than younger children, however, there was no

significant difference in the amount of information elicited from direct and indirect questioning. These results, if treated as suggestive rather than indicative, imply there is no evidence available to support the view that the use of CCTV is a bar to effective communication between witnesses and questioners.

Opposing the view that by reducing stress children will be more able to give evidence is another view that if children are removed from the court, they may not fully appreciate the solemnity of the occasion. Insulated in another room, they may feel less challenged by cross-examination and find it easier to continue making false allegations. However, children could hardly fail to be aware of the significance of the occasion, as researchers point out, they have some idea about the types of things court processes are for (Flin, Stevenson, & Davies, 1989). In addition, the criminal courts are deliberately designed to emphasise the majesty of the law (Flin, 1993), and the honesty of child witnesses is rarely an issue as Cashmore and Cahill (1990) point out. However, the effect of live-link on child complainants' ability to recall and recount the events witnessed are still unclear.

Concern has also been expressed about the possible coaching of the witness by the support person in the room. In New Zealand, the child complainant is permitted to have a support person in the room at the time of their testimony, whether this is given from inside the court or in the adjoining room. A court official invariably accompanies the child and support person to safeguard against the possibility of any coaching.

Effects on Others.

The studies of credibility are few but attitudes towards the link are sharply differentiated between those who place importance on physical confrontation and those who favour oral evidence. For the former, the absence of the witness and the limited view that results from the television cameras reduce information available to the jury (King, 1988). For those who give primacy to oral evidence, the very absence of the child will force the jury to concentrate upon what the child has to say.

Research tends to favour the 'oral evidence' viewpoint. Studies by Westcott, Davies and Clifford (1991b) videotaped children of seven to eleven years answering questions about a visit a class made to a museum. Only half the children had been on the trip and the other half had seen a short video of the visit. Adult jurors were only 59 per cent accurate in their detection of children who were telling the truth or lying, a figure only just significantly above chance. The cues which jurors relied

upon to make a decision were based on the child's verbal behaviour (86 per cent) of which factual content formed the major component. This is consistent with studies done with adult witnesses in videotaped trials (Miller & Fontes, 1979).

Studies have also been done regarding the type of camera shot that might influence juror's perceptions of credibility (full face, close-up or medium shot). Head and shoulders are generally produced and research suggests this is the preferred view, as they show the child's support person is not prompting answers (Miller & Fontes, 1979; Westcott et al. 1991b). However, it has been suggested that close-up shots may have significant advantages in eliminating differences in perceived credibility due to age (MacFarlane & Krebs, 1986). Others have suggested that the head and shoulders view may be a disadvantage because the jury cannot estimate the height and build of the complainant (Sharp, 1989). Therefore, in a rape case, this could be to the defendant's advantage where a jury might be expected to feel sympathy for a slight child abused by a large man.

These experiments do not, however, address a number of legal concerns such as the impact of the withdrawal of the witness from the court - is the accused perceived as being too dangerous to be allowed near the child? In New Zealand the judge will generally make comments regarding the use of CCTV and videotaped evidence to the effect that the jury should not see anything unusual or strange about the use of these modes of evidence but should merely see them as another form of giving evidence, and they should think nothing of it. However, it is unclear whether this is sufficient to eliminate prejudice in the eyes of the jury (Myers, 1987). Some believe, for example, that the child's testimony may have greater impact than if he or she were physically present in the courtroom because the medium bestows prestige and authority on those who appear on it. Others, on the other hand, believe that CCTV weakens the impact of a child witness's evidence and is, therefore, detrimental to the party, usually the prosecution, calling the witness (Cashmore & Cahill, 1990).

Another concern expressed regarding the use of CCTV has been from lawyers who see the link as restricting their ability to communicate with their client (Cashmore & Cahill, 1990). However, if the system prevents the intimidation of the witness by lawyers, especially in cross-examination, that result would be beneficial.

Pre-recorded Interviews with Child Witnesses.

The potential of pre-recorded videotape interviews with child complainants was recognised by many researchers as far back as the sixties (Labai, 1969; Williams, 1963). Although relatively new at the time its potential for speeding up the judicial process was quickly recognised (Armstrong, 1976; Kornblum, 1972). The endless possibilities for the uses of video-technology have produced a wave of enthusiasm from child advocates. These have included confessions and day-in-the-life films (similar to a victim impact statement but in film medium) as well as in criminal proceeding (German, Merin & Rolfe, 1982; Witke, 1983).

There are different reasons why video technology has been opted for by people working with child witnesses. One of the main reasons for video taping interviews is to reduce the amount of times a child has to repeat its story (Williams, 1987a). The video can be viewed by all professionals, including police, social workers and lawyers, involved with the child's case. The video may also be used as a means of refreshing the child's memory prior to trial. This provides an advantage to the child by enabling him/her to participate in therapy, and work through the psychological consequences of the abuse in the interim. It is also alleged that the existence of the video recording relieves the pressure on children from other family members who wish them to retract their statement (Bernstein & Claman, 1986; MacFarlane, 1986; Warner, 1988; Whitcomb et al. 1985).

The evidentiary value of videotapes has been widely debated (Berliner, 1992; Bulkley, 1985; Clark-Weintraub, 1985; Colby & Colby, 1987; MacFarlane, 1986; Williams, 1987a), with the key issue being whether they can be admitted as evidence as an exception to the hearsay rule; and without sacrificing the rights of the defendant (Spencer, 1987a, 1989; Spencer & Flin, 1990).

The advantages of such videotaped interviews have been highlighted by clinicians and researchers who see the evidential potential of the video recording to assist children giving evidence in court (Davies, 1988; Vizard, 1990; Williams, 1987a). In many countries it is argued that the videotape can act as an additional source of support for the child's testimony if the child must testify. It has also been advocated that videotaped evidence could be used solely, thus removing the need for the child to appear in court altogether (Williams, 1987a); however, this is only possible if closed circuit television is employed for the duration of the examinations. Hence, the child complainant need not physically attend the courtroom, but must undergo all procedures necessary in the course of the trial.

The use of the videotaped evidence alone has been proposed to alleviate anxiety for child complainant/witnesses. As mentioned earlier, they will not have to testify in an unfamiliar and adult-oriented place about a frightening and probably embarrassing experience, and are less likely to be intimidated by their surroundings or the presence of the alleged perpetrator (MacFarlane, 1986). Multiple interviews are also avoided (Stern, 1992), which are seen as a major stress contributor and have the potential for confusion of facts to be incorporated into each version of the story (Benedek & Schetky, 1986; Burgess & Holmstrom, 1978; Butler-Sloss, 1988; Whitcomb et al. 1985). Many have speculated that a further consequence of videotaping the child's interview is that it may encourage guilty pleas from defendants who have viewed the tape (Chaney, 1985; Goodman & Helgeson, 1988; Spencer & Flin, 1990; Mackay, 1990; Smith, 1988; Stern, 1992; Warner, 1988; Whitcomb et al. 1985; Williams, 1987a). However, there is no empirical data available to confirm this hypothesis.

However, several potential problems arise when videotaped evidence alone is used to try a case. The first is the contention that the use of video recorded interviews deprives the defendant of the right to confront the witness (Bulkley, 1985; Colby & Colby, 1987), the right to cross-examine and thus properly test the evidence, and ensure that the jury observes the demeanour of the complainant while testifying (Warner, 1988). This right of physical confrontation is strongly entrenched in American law (Goodman, Levine, Melton & Ogden, 1991), but less so in United Kingdom and New Zealand law (Spencer, 1987a; Warner, 1990). Videotapes do not conflict with many basic traditions. The child and interviewer can still be cross-examined and the demeanour of the complainant is shown on the screen. The purpose of a criminal trial is to determine whether the crime alleged has been committed (Warner, 1988), and the provisions are within this spirit.

The video recordings have also been criticised as involving considerable dangers of brain-washing and coaching of children. The risk that the interviewer will prompt the child by excessive use of leading questions has been raised and Warner (1988) has pointed out that the absence of videotapes does not preclude brain-washing possibilities. Specialist interviewers, who are familiar with the dynamics of child development, child sexual abuse and the law, can ensure these requirements. It is not a problem with the videotaping that is crucial here, rather it is with the interviewer (Stephenson, 1992). Another point in reply to this concern is the fact that by videotaping the interview, the method used to obtain the evidence would surely be clear to those assessing the details. Given that the literature suggests that

both adults and children tend to have difficulty monitoring sources of information as time passes, an early interview videotaped would eliminate contamination of the child's account and can only aid the fact finder's process in assessing the truth.

The quality of the video equipment used is of great importance. One possible problem videotaping imposes is the high cost of setting up. A high quality recording of the interview is required to allow those involved with the case to assess it accurately. This includes assessment of the child's credibility, assessment of the questioning techniques used and assessment of the evidence put forward on the outcome of the case. Concerns have been raised that the video presentation will affect a juror's ability to assess the witness's credibility, by failing to show subtle changes in pallor (Armstrong, 1976; Grant, 1987; Sharp, 1989). Another point of relevance has queried whether the use of a video recording will interfere with a juror's attention to the testimony (Miller & Fontes, 1979).

Videotaping of evidence may disadvantage the complainant by the fact that the strengths and weaknesses of the case are produced prior to the trial (Shuart & Olson, 1983; Williams, 1987a). As the defence has a right to view the tapes, the path of the case is set out before the trial, enabling the defence counsel to plan their trial strategy while already familiar with the recorded testimony of the chief witness(es), their developmental ability, demeanour and vocabulary.. This, however, may be a relief for children, as it means that the prosecutor will not have to ask the same questions again (Stephenson, 1992), and may just add some follow-up questions as necessary. It may also be that the strengths of the case out-weigh the weaknesses, resulting in guilty pleas being entered by the defendant before a trial.

Finally, there is concern that, by questioning the child in a more comfortable, relaxing environment, this may give the testimony a more "relaxed" tone in that the child's demeanour may be less anxious. This may, in turn, suggest that the child was not emotionally affected by the alleged abuse, or that the testimony was learned (MacFarlane, 1985) giving a misconstrued perception of the abuse. All of these issues require serious evaluation when the potential of video technology is considered.

In New Zealand the Evidence (Videotaping of Child Complaints) Regulations 1990 (see Appendix A) specified the guidelines which would enable a videotaped interview to be admitted as evidence for a child complainant. The regulations detail the situations where the tapes fall under exception to the hearsay rule, and under what conditions they are to be used. The interviews take place in a non-

threatening environment, in a room equipped with child-sized furniture and toys. Recording of early interviews with child victims/witnesses preserves an accurate record of their account while the event is still fresh in the mind. It enables the viewer to hear the story in the child's own words, accompanied by the child's non-verbal behaviour. Skilled interviewers, who have specialist knowledge of child development, the dynamics of child sexual abuse and interviewing children, conduct the interviews, ensuring the specifications of the Evidence (videotaping the child complaints) Regulations (1990) are adhered to.

In New Zealand the videotape can either wholly or partially replace the child's testimony as part of their evidence-in-chief. However, the child witnesses are still required to be available for cross examination and re-examination.

Formal Aspects of Taping.

Those who conduct the child's initial interview are generally from child welfare agencies, for example, Social Workers, Psychologists, Psychiatrists or Police (Boat & Everson, 1986, 1993; Feldman, 1988; MacFarlane, 1986; Vizard, Bentovim & Tranter, 1987). Training and experience of the professionals interviewing child complainants seems most important, however it appears that this varies (Benedek & Schetkey, 1987; Walker, 1990). Although this type of technically admissible evidence is based on the diagnostic interview, specialist training is indicated (Berliner, 1992; Bernstein & Claman, 1986). To be admissible as evidence at the time of trial, the recording, however meaningful and relevant, must comply with the legal requirements of the regulations.

The interviewer needs to be aware of factors arising from the position and operation of the camera equipment when video recording (MacFarlane, 1986). They must also be able to interview the child in front of the camera, as well as gauge their reactions to the camera. The knowledge that an interview is being videotaped can increase the pressure on the child and decrease the fluidity of their disclosure (Stern, 1992). Therefore, it is important for the interviewer to establish rapport with the child to put them at ease during the interview, and to monitor their level of stress throughout the interview.

The importance of the interviewer in questioning a child about an alleged event, and the benefits of training, are illustrated in the most famous interview by Jones (Jones & Krugman, 1986). A three year old girl was interviewed about her abduction and assault. The interview elicited such accurate testimony that her abductor was

subsequently identified, arrested and admitted the offence. This demonstrated not only the ability of some young children to give a true and accurate account of an event (Williams, 1987c), but also how skilled child interviewers, working soon after the crime, can informally, without haste and using toys as aids, obtain detailed and consistent evidence.

The amount of prior information about a case given to the interviewer has been the subject of much debate (see Vizard, 1992, for a review) There seems to be quite opposing views as to whether prior knowledge empowers the interviewer thereby enabling them to guide their questions appropriately (Boat & Everson, 1986, 1993; MacFarlane & Krebs, 1986), or whether the result is unnecessarily focusing on certain aspects of the testimony or bias questioning (White, Strom, Santilli, & Quinn, 1987). The amount of prior knowledge available was suggested by Davies and Westcott (1992) to be best left to the judgment of the interviewer. They should decide which mode of operation is preferable and most useful.

In New Zealand, video taping is performed by a team of specialist interviewers, a sector of the Department of Social Welfare, where equipment and facilities for recording are available, however, staff members of the Child Abuse Unit have been known to interview child complainants also. Interviewers see the child alone, so that the accompanying adult is unable to influence the child's testimony in any way. Interestingly, recent research by Moston (1991, 1992) has suggested that the presence of informed peers may facilitate the child's recall where the interview is videotaped. All personnel present for the duration of the interview are identified - the interviewer and the person monitoring the interview and equipment. Two tapes are made of the interview; one that is sealed with a certificate and stored in police custody (master copy) and the other used for investigative purposes (working copy). They have a schedule attached documenting who sees the tapes after the recording. Both copies must be signed and dated. They are then stored for seven years (see Evidence (video taping of child complaints) Regulations 1990 for further details (see Appendix A). With regard to the amount of prior information given to the interviewer, they will generally have very little information about the complainant, other than already established facts.

The Interview.

The forensic needs of the interview require that only objective questions be used to elicit details of the alleged incident. The problem as to whether video tape evidence should be of evidentiary or therapeutic interviews (see Davies & Westcott, 1992;

MacFarlane, 1986) has been of concern to some. Problems are caused if the tape is put forward as evidence (MacFarlane & Krebs, 1986; Vizard, 1987), where the purpose of the tape has been therapeutic. For example, the nature of leading questions suggests the expected answer and employing leading questions fulfils the therapeutic role of the interview. For evidential purposes leading questions are not permitted to obtain testimony. In Christchurch interviews of child sexual abuse cases are done for evidentiary or courtroom purposes as opposed to use in therapeutic assessment, unless otherwise requested. Members of specialist services and the police are working together in a multi-disciplinary approach to investigations in order to overcome this problem.

The making of an "Evidential Video Tape", that is, a tape which is produced with the main purpose being to replace a formal written statement and stand as the main evidence in a criminal court, needs specific guidelines. Although guidelines regarding sexual abuse Evidential Interviews have been drafted, they have not, as yet, been formally ratified. They have been in this form for sometime and are generally accepted as the basic format (Caton & Atwool, 1993).

Logistics of Pre-recorded Evidence.

Within the court arena, children will need to be asked questions to bring out their evidence, and the use of videotaped interviews made for evidentiary purposes can be used in place of the actual courtroom questioning. However, lawyers need to take into account children's language skills. As discussed earlier, because children interpret questions very literally and think very concretely, they may, in fact, appear inconsistent. Unfortunately these characteristics of children's testimony have often been made the basis of discrediting tactics by cross-examining barristers (Brennan & Brennan, 1988) and are of much concern to many professionals (Naylor, 1989b; Smith, 1988; Vizard et al. 1987; Warner, 1988).

Two issues which have arisen of late are those of the ownership of the videotape, and the associated issue of confidentiality (MacFarlane, 1986; Smith, 1988; Vizard, 1990; Warner, 1988). If the videotape is to be used as evidence, then the defendant and his/her counsel must be permitted to view the tape. However, many professionals feel this is a breach of the child's confidentiality and is not what the tape was originally intended for (Smith, 1988).

Other issues raised regarding the use of video recordings without prior knowledge and consent of the child and their family has been aimed in two directions: 1)

unauthorised access, and 2) the rights of the parents versus the rights of the child. These issues have led to serious misgivings on the part of professionals called to interview children, even to the point where some abandon the use of video equipment to record the interview (MacFarlane, 1986). Firstly, access to videos has been controlled by legislation. In San Diego, a protective order must be signed by a judge before a copy of the videotape may be released to an attorney representing the accused or family members (Stephenson, 1992). In New Zealand, some steps have been made to address these issues formally in the guidelines set out by the Evidence (Videotaping of Child Complaints) Regulations 1990 which clarify many of these concerns. A schedule accompanies the video tapes which must be filled out by each person who views the tape, once the police have given them clearance to do so. Parents do not have automatic rights to view the tapes. Butler-Sloss (1988) suggests at best professionals are encouraged not to promise the child no-one will see the tape, as there would be no purpose in making it.

This leads to the second issue of parental rights versus the rights of the child. Where the suspect is a member of the child's family, the co-operation of a non-abusing parent cannot be counted upon (Warner, 1988). If the non-abusing parent, usually the mother, has not been at least supportive in disclosing the child's allegations, she may warn the suspect and so reduce chances of a confession. The child's right to safety must not be ignored, even if this means they must be taken out of their home environment to ensure their safety.

Further, the practical problem of ownership and storage of the tapes poses problems as to which agency will be responsible for the storage, and who will be able to prevent the misuse of them (Vizard, 1987). Video recordings of interviews are seen as the property of the child in New Zealand (Caton & Atwool, 1993), as they are their statements. Once the tape is made and the master copy sealed, both the video and audio tape are locked away in storage. The New Zealand Police maintain sole custody of the tapes.

The issue of editing is also important when videotaped interviews are considered (German, Merin, & Rolfe, 1982). Walker (1990) mentions cases where the judge appears to have fallen asleep due to the number of recordings at trial. Evidence must be relevant (Feldman, 1988). It is possible that all relevant information will not be elicited from the child in one interview, and that large amounts of irrelevant material may be produced. There is also the possibility that information regarding the defendant's prior criminal history may be disclosed and, for the purposes of a

trial, such information must not be included in order that the accused have a fair hearing.

All these aspects may lead to the child's credibility being questioned if the tape is edited. Whitcomb et al. (1985) cite a case where a young girl hesitated when asked if she had a dog; and the child's apparent uncertainty was then used to discredit her whole testimony. Although editing is seen as the best possible solution to the problem (Spencer, 1988), where only the essential statements of the child are submitted as evidence, it may lead jurors to be suspicious of the sections not included and what this implies about the child's testimony.

1.3 MORE ABOUT NEW ZEALAND PROCEDURES

History.

In Christchurch, New Zealand, 1986, the Child Abuse Unit was established as a specialist sector of the Police Department to investigate allegations of child abuse. Through the late eighties and early nineties, many changes have occurred with regard to the investigation of child sexual abuse.

1986: The National Advisory Committee on the Prevention of Child Abuse produced the first substantial guidelines for practice across all disciplines.

1986: The Child Abuse Unit was set up in Christchurch, with three officers running the investigations.

Late 1988: The Police and Department of Social Welfare national policy on the joint investigation of child sexual abuse cases was agreed and implemented.

1989: Amendments to the Summary Proceedings Act (1957) and the Evidence Act (1908) were passed, to come into force 1 January 1990.

July 1990: The guidelines for taking of videotaped interviews were passed, to be implemented as of the 28 July 1990 (Evidence (Videotaping of Child Complaints) Regulations 1990).

April, 1991: The first trial to use the provisions set out in the Evidence Act 1908 was to be run 6 April 1991 - although a guilty plea prevented this happening.

In 1986 Nicola Taylor conducted a study of 102 complaints to the police involving sexual offences against children and young persons aged 16 years and under for the Advisory Committee on the Investigation, Detection and Prosecution of Offences Against Children. The study reviewed a random sample of files from Christchurch, Auckland Central and Auckland Southern police divisions, and assessed the extant

of Department of Social Welfare involvement with these cases. Interviews were conducted with CIB staff members from each division. The review of the files showed that while age of the child is a factor in determining whether a case would proceed with court action, the ability of the child to articulate and come "up to brief" is more crucial. Involvement with the Department of Social Welfare was not extensive in any of the areas researched and it was clear that improvement of case co-ordination between the police and Department of Social Welfare needed to be addressed. The results of the interviews with CIB staff members in Christchurch highlighted some of the areas of concern at that time. The issues identified by the Christchurch CIB staff members that were interviewed are listed in Appendix B.

Competency.

The current position is that a child witness under the age of 12 years does not have to take an oath before giving evidence, rather they make a declaration or promise to tell the truth (Oaths and Declarations Act, 1957). In practice, whether or not a child is deemed competent to give unsworn evidence is decided by the court on the basis of first, the child's understanding of the importance of telling the truth, and secondly, on the ability of the child to convey his or her evidence in a manner that can be understood. It is unusual for a judge to warn the jury of the danger of convicting an accused on the unsworn testimony of the child, as occurs in other countries such as the United States of America and Australia (Warner, 1990). The report of the New Zealand Advisory Committee on the investigation, Detection and Prosecution of Offences Against Children (1988) criticised the issue of competency warnings and recommended that, as the competency test serves no useful function, it should be abandoned, leaving the weight placed on the testimony of the child to be determined by the trier of fact. It was argued that an exploration of the child's understanding of the truth is not relevant to competency, and there is no basis for an assumption that a child, who is unable to understand the duty to speak the truth, is also unlikely to recount accurately past events.

Corroboration.

Corroborative evidence of children's testimony is not required as a matter of law in New Zealand. Amendments were introduced to the Evidence Act 1908 in 1986 that states that corroboration of the complainant's evidence is not required for conviction, and that the judge may tell the jury that there may be good reasons why victims refrain from or delay in making a complaint. Research by Spier, Norris, and Southey (1992) looked at the impact of these changes on the number of guilty pleas

in sexual offence cases from 1983 to 1990 and found that the proportion of convicted cases which involved a not guilty plea did not change as a result of the introduction of the new legislation. However, the proportion pleading not guilty fluctuated from year to year, with the highest value occurring in 1984, before the legislative change, and the lowest value occurring for 1986, the year in which the legislation came into force. The data looked at in this research was not restricted to child sexual offences only.

The warning judges often used to give to juries regarding convicting on the evidence of uncorroborated evidence of the complainant was amended on 1 January 1990 by s 23 C of the Evidence Act (1908). It provides that a judge shall not give any warning to the jury relating to the absence of corroboration of the evidence of the complainant, if the judge would not have given such a warning had the complainant been of full age (Evidence Act 1908; s23 (c); Appendix A).

Expert Evidence.

The Evidence Act 1908, amended in 1989, includes provisions which authorise expert witnesses to give evidence on the intellectual attainment, mental capability and emotional maturity of any complainant of child sexual abuse; the general developmental level of children the same age as the complainant, and whether evidence given of the complainant's behaviour is consistent or inconsistent with the behaviour of sexually abused children of the same age groups as the complainant (see Evidence Act 1908, s 23 G; Appendix A).

Some psychiatrists have been noted for their willingness to act as expert witnesses for the defence (MacFarlane, 1986), and for their criticism of interviewing methods employed, frequently in the absence of any personal knowledge of experience in child psychology. However, the use of their testimony is often challenged on appeal (Mason, 1992). In addition, videotapes are often assessed in isolation, without the benefit of the interviewer's notes or assessment of the interview (Hollingsworth, 1986; Smith, 1988). As with the use of anatomical dolls as aids in interviews (Marsh, 1990; Westcott et al. 1989), this situation could possibly be resolved by the continuing efforts of professionals to share their experiences and knowledge with each other (Davies & Westcott, 1992).

Hearsay.

The New Zealand Advisory Committee on the investigation, Detection and Prosecution of Offences Against Children (1988) recommended that a special hearsay exception be adopted that would allow the admission in cases of child sexual abuse of certain out-of-court statements that do not fall within the existing hearsay exception (see Report of the New Zealand Advisory Committee on the investigation, Detection and Prosecution of Offences Against Children, 1988; note 19 at p.28). The recommendation for hearsay exception in relation to videotaped interviews with children has been acted upon, allowing them to be admitted in court as evidence (see Evidence Act, 1908; s 23C to s 23 I).

Screens.

Ad hoc measures have been used in some New Zealand courts to protect children from direct eye contact with the defendants. Some lawyers use their own bodies to block the victim's view, others simply instruct the child to look elsewhere. In some cases, children have been encouraged to tell the judge if the defendant is making faces. The use of a screen placed between the child and the accused has also been implemented.

Video recording as Evidence.

In order to avoid editing of the tape prior to being presented for trial, precautions must be taken to ensure the document is whole. A timer is essential in any case, to be acceptable to the courts (Warner, 1988), and editing should be done after this point, if necessary. In New Zealand, a clock must be visible at all times throughout the duration of the interview - often difficult if young children are restless and traverse the extent of the interview room in exploration. At the beginning of the interview, the interviewer introduces him/herself, their role, where they are and the date; clarification of the child's name and establishing if the child knows the difference between truth and lies must be done before the interview begins. This is a set procedure based on the ideas by MacFarlane (1986). The videotape remains in full until the point in time where it is required by the judge to view at the Depositions hearing, who then determines what will be edited.

Children do not give evidence at committal or preliminary hearings in New Zealand. The evidence of a child witness may be given by tendered statement or in the form of a videotape of the child's interview. The evidence of a complainant,

who at the commencement of the proceeding was under the age of 17 years, may be given in the form of a videotaped interview both at the preliminary hearing (depositions hearing) and at trial. At pre-trial conference, the mode of evidence to be used at trial must be applied for by written affidavit by the Crown. The court must be satisfied that the videotape has been made and identified in the prescribed manner set out by the Evidence (Videotaping of Child Complaints) Regulations 1990.

As an alternative, a judge may order that the giving of evidence of the complainant be recorded on videotape and admitted in that form (Evidence Act, 1908; s 23 I (e)(iii)). In both these situations, the child complainant may still be required to undergo cross-examination by defence counsel at the trial. Hence, the trauma associated with waiting for the trial and giving evidence is not avoided by the provisions introduced on the 1 January, 1990 (Evidence Act, 1908; s 23 C to 23 I). As Warner (1990) points out, the expectation of reduced stress through the use of video taped evidence may not be a reality, especially if exhaustive cross-examination ensues in the hope that discrepancies between the interview and the child's evidence in court will arise.

Closed-Circuit Television (CCTV).

Section 23 E (1) (b) of the Evidence Act, 1908, provides that, where the complainant is under the age of 17 years at the commencement of the proceeding, the mode in which the court may request evidence to be given at trial includes ordering that the evidence be given via closed-circuit television.

Other Issues - Locations.

Metropolitan areas have tended to set up 'Evidential Units'. Regular practice of interviewing children is an important concern, especially for small centres, as they have to make a choice between having the complainant travel to an evidential unit or having one or two specialised persons who do not have the opportunity to practice interviewing skills regularly, or have collegial support (Caton & Atwool, 1993). Also, it may not assist those in rural settings who have to travel long distances to main centres and who may become quite disoriented and overwhelmed by the city. Although trials are generally run at the location where the complainant resides, these may not be in a main centre either, and may also require long distance travelling.

1.4 CONCLUSIONS.

In summary, the literature points to clear implications that children are capable of being clear and competent witnesses. There appears to have been a shift in focus from the ability to relate information to the presumed suggestibility of children. As yet no firm conclusions have shown children to be any more suggestible than adults. As Pipe (1993) concludes "children cannot be categorised as reliable or unreliable, competent or incompetent on the basis of age alone. We need to more fully understand how children are best able to provide complete and accurate reports and then we must ensure that they are able to provide those reports within the legal system." (p.12)

Any child witness appearing in court should have the right to avoid the traumatic stress, especially the potential intimidation that can arise from the presence of the defendant. However, some lawyers do not see this as problematic. As Spencer (1990) notes, it sometimes seems that rule number one of the lawyers manual of human psychology is that memory improves with the passage of time, and rule number two is that stress improves recall. The literature suggests a legal system that makes sense to children would be a realistic goal to set, in order to assist their participation in the Criminal Justice System. Reducing the amount of adult-oriented procedures and roles seems one way to accomplish this goal.

It is encouraging to see that allowances have now been made to include children in the system. The amendments to the Evidence Act 1908 which came into force 1 January 1990 have made provisions for children who prosecute and have to go to trial. These provisions were set in place to reduce the associated stress that occurs when proceeding in the Criminal Justice System. Many of the other consequences foreseen with the implementation of such provisions have only added to the primary objective.

Although the amendments were to come into force on the 1 January 1990, it was not until July 1990 that the regulations specifying the guidelines for implementing the provisions in the Evidence Act 1908 were formalised. Even with these two documents in place, the provisions were not able to be utilised until some 15 months after the date the initial amendments came into force. This, and many other issues relating to the changes that have been implemented in the past five years, have been highlighted by Geddis (1993) in a review of the legislative amendments.

1.5 AIM OF THE STUDY.

The aim of this study was to address two main hypotheses:

1) Video evidence would result in more guilty pleas being entered.

2) Having video evidence available would mean less time taken to:
   a) get to trial
   b) resolve the case.

A number of questions were also posited as guidelines for the course of the study.

PART ONE.

A What changes have occurred since Taylor's 1986 Study to the structure of the Child Abuse Unit?

PART TWO.

A What happens to complaints of child sexual abuse?

B What changes , with regard to the outcomes, were there from before and after the introduction of the Evidence (Videotaping of Child Complaints) Regulations 1990?

PART THREE.

A What types of charges were laid for child sexual abuse cases? Frequency?

B Are charges laid for minor offences?

C Were charges laid involving male victims?

D Were charges laid involving female offenders?

E Were charges laid in cases reported to police more than one year after the incident(s) occurred?

F Did these charges result in a conviction?

G What was the relationship between the offender and victim, and the outcome of the case?

H Did the type of sentence relate to the characteristics of the offence, victim and/or the offender?

I Are Victim Impact Statements used for child victims?

PART FOUR.

A Was competency assessed by a judge for all child witnesses?

B Did this vary after the availability of video-technology?

C What questions/issues are raised in relation to competency?

D Were videotapes being used in evidence?

E Was CCTV being employed in trials?
F Have screens been used in court?
G Have supporting adults accompanied children during the trials?
H What sorts of issues were raised during cross-examination? Frequency?
I Was the prior sexual activity of the complainant raised at trial?
J Were expert witnesses used?

This study was chosen to explore the impact of video evidence in an effort to assess the implications of the abundance of theoretical work that has evolved in relation to children as witnesses. As such, no study of this sort has taken place in New Zealand.

The purpose of this study is to assess the impact of the introduction of the amendments to the Evidence Act 1908 on the outcome of child sexual abuse cases, particularly with respect to the mode of presentation of evidence at trial. The Evidence (Videotaping of Child Complaints) Regulations 1990 were submitted by the Governor General on the 7 July 1990 and came into force on the 28 July 1990. The regulations stipulated the guidelines to be adhered to when taking and presenting videotaped evidence from children.

This study also examined the processing and treatment of complaints of child sexual abuse in the justice system since the implementation of the regulations. One of the aims of this study is to identify the similarities and differences in trends, both before and after the introduction of the Evidence (Videotaping of Child Complaints) Regulations 1990.

CHAPTER TWO.

Methodology.

CHAPTER TWO.

Methodology

2.1 DESCRIPTION OF THE LOCATION.

The data used in this study was obtained from the Christchurch area of New Zealand. The population of this area is approximately 280,000. The cases pertained to both central and suburban areas of Christchurch, with one case from the rural district. Only sexual abuse cases that fell under the jurisdiction of the Child Abuse Unit of the Police were investigated. Any cases dealt with by suburban police stations and not recorded by way of the Sexual Abuse Team records were not included.

2.2 ORGANISATION OF THE REPORT.

Due to the small sample size (N = 329 cases, of which 72 involved charges being laid against alleged offenders) of this particular data base the results will only be described in terms of the characteristics and processing of the child sexual abuse cases. Findings of statistical "significance" may not necessarily be representative of the trend throughout the Christchurch area or New Zealand.

There are 4 major study components:

1. Description of the current procedures and practise of the Christchurch Child Abuse Unit.

2. A review of all child sexual abuse complaints made to the Child Abuse Unit.

3. A review of police files for cases where charges were laid.

4. A review of court material for cases that went to trial.

2.3 RESEARCH DESIGN.

This study is primarily exploratory. The first aspect of the study involves a description of the current procedures implemented by the Christchurch Child

Abuse Unit. This will assess the changes that have been made to police investigations and organisation since the report by the Geddis Committee in 1986. The second component assesses all complaints made to the Child Abuse Unit over a two year period during which the Evidence (videotaping of child complaints) Regulations 1990 were introduced. This indicated whether the regulations had any impact on the overall outcome of reported incidents. The third component of this study identified the demographic characteristics of both the victim and the alleged perpetrator, the nature of the abuse and general case details. The forth component involved an assessment of the impact of video technology within the courtroom environment, specifically on the outcome of the trial.

The study began three years after the Evidence (videotaping of child complaints) Regulations 1990 were proclaimed. By using archival data it was possible to implement a pre-test/post-test design. The study involved collecting data from two main sources:

1) Analysis of existing information systems (police files)

2) Interviews with the Officers In Charge of the cases that went to trial.

2.4 STUDY COMPONENTS

2.4.1 PART ONE

Current Practice and Procedure Implemented by the Christchurch Child Abuse Unit.

A description of the current practice and procedure guidelines was obtained from interviews with members of the Child Abuse Unit. There were ten Child Abuse Unit staff interviewed. Of these ten, three were still currently working on the unit.

Instruments and Procedures.

Guidelines for questions regarding procedure were developed specifically in response to the findings of Nicola Taylor's 1986 study of 102 child sexual abuse cases (see Appendix B). Information was collected regarding the staff and staff training, liaison with other agencies, the processing of cases and the procedures followed. Not all the questions were relevant to all the staff members questioned and were, therefore, used as guidelines only. A document providing guidelines that the Child

Abuse Unit in Christchurch currently adhere to was provided and is shown in Appendix D as part of the results of this section.

The questions were administered verbally and answers were noted down by the researcher at the time. Due to time constraints and the nature of the questions there were no questionnaires mailed out to any of the police members involved.

2.4.2 PART TWO.

A Review of Child Sexual Abuse Complaints made to the Child Abuse Unit.

Table 2-1 Description of the Child Sexual Abuse Unit Complaints by Time Period.

Complaints made by date active	Number of reported alleged complaints of child sexual abuse
28 July 1989 to 27 July 1990	126
28 July 1990 to 27 July 1991	164
Total cases reviewed	290

Time Span

Table 2-1 contains a breakdown of the number of complaints reported to the Christchurch Child Abuse Unit reviewed for this study. The time span viewed for the evaluation of all complaints made to the Child Abuse Unit and was one year either side of the Evidence (Videotaping of Child Complaints) Regulations 1990 which came into force on 28 July 1990. This was done to assess whether the introduction of the regulations had any impact on the investigations and outcomes of the general complaints made to the Child Abuse Unit, given that the videotaped interviews could legally be used in court if necessary from this date.

Instruments and Procedures

In order to present an indication of the impact of the Evidence (videotaping of child complaints) Regulations 1990, a broad evaluation of all complaints of child sexual abuse reported to the Child Abuse Unit from 28 July 1989 to 27 July 1991 were reviewed. The data were collected from a computerised database according to the initial date of the complaint to the Unit, then double checked by corresponding the computer data with the manual system. The manual system was of two sorts: a) Child Abuse Unit records of all complaints and enquiries made each day, and b) official police files stored at the Christchurch Central Police Station. In cases where the outcome of the case was inconclusive on both the manual or computerised system the officer in charge of the case was contacted to determine the outcome of the case either from memory or personal case notes. The review of cases was conducted on site by the researcher in the Christchurch Central Police Station where files are stored and the Christchurch Child Abuse Unit where data regarding every complaint reported is kept. The data acquired from the police files was then coded and computerised for this study. All of the cases were closed or filed cases, that is, they were no longer active.

Measures and Operational Definitions.

Category Definitions

The main analysis of this section involved breaking the data down into various outcome codes in order to assess the proportion of cases that progressed through each stage of the Criminal Justice System (see Police File Review; Appendix C, for details of this).

OUTCOME.

1. Insufficient to Prosecute.

Insufficient evidence in fact covers a broad spectrum from insufficient evidence of an offence, for example, no disclosure from the child or corroborating physical evidence, to not having enough facts to build a case strong enough to prosecute the accused (prima facie case). The fact that no offences are detected should not be misconstrued as a false complaint. In cases where no offence was detectable, generally no disclosure of the offence has been made at the time of the video-interview or police inquiry. Children will often disclose abuse to a person they trust

and withdraw their disclosure when they start experiencing the emotional and behavioural changes that telling someone brings about (Saphira, 1987).

2. Information only.

Generally this involved reports of suspected abuse from agencies, such as New Zealand Children and Young Person's Service (NZCYPS), who may be investigating a claim and would follow up the complaint when further information becomes available. Other times there may be information about an incident of child sexual abuse provided for noting purposes so that an official record of the initial date abuse is suspected is recorded. When further information is available the case can be investigated from that point.

3. Transfer to another location.

Sometimes if children have been away from a situation, for example staying at someone else's home, they may disclose sexual abuse to the person they are staying with who may in turn report it to the Child Abuse Unit. They then hand the information on to the office that covers the area the child lives in. In cases where the offender and child or children are living in different locations the trials are generally held in the child's location on application by the Police. This is generally accepted by most Judges now although in the past this was not so readily accepted.

4. Complaint Withdrawal.

A complaint can be withdrawn at any stage of the proceedings by the complainant (child victim) and/or their family. The crown solicitors who represent the complainant and police may advise on whether the case should proceed given the child's age and capability to give evidence in court. Making an allegation of sexual abuse is traumatic for all those surrounding the complainant as well as the complainant. It evokes many powerful and horrible emotions and is a time of general stress and anxiety for all (Saphira, 1987). The fear of the many powerful and painful emotions that surface may be one reason for not pursuing a complaint. As stated earlier, a child complainant may withdraw their disclosure once they start experiencing the changes that the disclosure brings about (Saphira, 1987). In cases where the complaint is withdrawn it is the wishes of the child and/or their family that dictate the decision.

5. Unable to Prosecute the Accused .

This category includes the accused being in prison already, and thereby it not being practicable to prosecute, especially if the offender has been convicted for other child sexual abuse charges. In these cases the offence(s) was generally of a minor nature

so unsuitable to charge if the offender was already doing a prison term for other sex offences. Another situation included in the category was the accused no longer being in the country.

The final aspect of this category included offences being reported in New Zealand but committed in another country such as Australia where the New Zealand police do not have jurisdiction.

6. Suicide.
Suicide included all alleged offenders who committed suicide before the resolution of the case. This included alleged offenders who committed suicide before being charged and before going to trial.

7. Dealt with by Other Group.
Cases designated within this category were often dealt with by agencies such as the Department of Social Welfare, and more so the section of this department known as The Children and Young Person's Service (NZCYPS). In cases such as these the NZCYPS would liaise with the family to investigate the complaint further. If the accused was someone in the family or had access rights to the child, social workers from the NZCYPS would ensure the safety of the child victim. Another facet of this category also organised by the NZCYPS is the Care and Protection Resource Panel. This comprises of a group of professionals who monitor the family and children for safety and the processes in place to help them. When the guidelines were introduced the Child Abuse Unit reported all cases to the Panel for review, however the increased work load has resulted in too many people in need of this service for it to cope with.

It should be noted here that in many cases where the complainant does not want to proceed but the interview reveals sufficient evidence to do so the Police will suggest and encourage the accused to attend a STOP program or counselling. The Police have no jurisdiction over this - it is done on a purely voluntary basis.

Other outcomes designated to this group is the offenders being referred for treatment such as Sunnyside Hospital for mental health reasons. Other offenders may be referred to the Youth Aid Section of the Police. The offenders dealt with by this group would be between the ages of 10 and 16 years. The Youth Aid Section investigate the case and ensure some sort of program or punishment is implemented to stop re-offending.

8. Other.

The category entitled 'other' covers all the extraneous outcomes that meant a case was cleared or closed by way of methods other than prosecution and conviction. It included warnings for any offence. A warning may be issued if the police believe the offence occurred and/or there is sufficient evidence available to prosecute but the family and/or victim do not wish to proceed further. This category also included cases that the family court system dealt with, which includes issues of custody, divorce, access and family disputes. It also included cases passed on to the Youth Aid Section of the police and any of the more unusual outcomes.

9. Guilty Plea.

Guilty pleas included all cases where the accused offender entered a guilty plea to the charges that were laid against him. This should not be misconstrued with any admissions the accused may make to the police at the time of their investigation, but the plea the alleged offender makes during the court proceedings of the case.

10. Trials.

This category included cases that went to trial were included in this category. Cases that went to trial and resulted in conviction or acquittal were included in this category. Those cases where a trial was organised but a guilty plea was entered before the trial were included in the guilty pleas category.

11. Dismissal.

Cases that were dismissed were included in this category. Cases were dismissed by application by the Crown or the Defence counsels.

12. False Complaint

In these cases it was established through thorough investigation that there was no evidence of any offences and that the complaint had been false.

<u>Relationship of the Alleged Offender.</u>

The categories of relationship included stranger, other known person, and known relative. For victims, details of the relationship of the offender were coded as per the police information.

The three categories included:

1. **Relatives** included fathers, uncles, grandfathers, step-relatives such as step-fathers (being married to the victim's mother), step-grandfathers, step-brothers, step-

uncles. This category also included those alleged perpetrators who were in the father-role to the victim such as de facto fathers (Step-father equivalent but not married to the victim's mother) and guardians.

2. **Other Known Persons** included any person the victim and/or their family was familiar with prior to the abuse occurring. This included family friends, school teachers, school bus drivers, neighbours, baby-sitters, boarders, boyfriends, acquaintances (persons not personally well known to the victim) and personal friends.

3. **Strangers** included any person not known to the victim and/or their family prior to the abuse occurring.

4. **Known to the victim but not the police** was a category where abuse was suspected but the victim would not disclose who the person was. In these cases the offender was often known by the child, but was not known to anyone else.

Duration of Time.

The duration of time taken to reach various stages of proceedings was obtained by subtracting the date to reach each stage from the initial reporting date. The unit used to measure this was months.

Analysis

Results obtained in this section were analysed using chi-square to determine significant differences in the data. T-tests were employed to determine any significant differences in the durations of time to reach different stages of the legal process and Pearson r for correlations.

2.4.3 PART THREE.

Police File Reviews for Cases where Charges were Laid.

Table 2-2 Description of Police File Review Sample By Type of Clearance.

Sample by Clearance and time period	Charges laid	Other clearance	no further investigation	False Complaint	total
total	71	31	223	4	329

Time Span

Table 2-2 shows the number of files reviewed for this study. Details for the Police File Review were obtained over the time span of 28 July 1989 to 5 October 1991. This covered every case that was reviewed either for general details as well as those reviewed for trial details. Of the total of 329 cases where charges were laid by the Child Abuse Unit 70 were reviewed in this section. In one case the file was not located and could not be reviewed. Cases cleared otherwise were not reviewed due to time restrictions, therefore, it was not possible to evaluate the differences between the types of cases charged and those cleared by other means.

Police file reviews were developed to gather specific information from the various files in this study where the police laid charges. The Police file review form (Appendix C) was developed to collect general information for each case involving a child victim and an alleged perpetrator of sexual assault. Demographic details were obtained as well as information regarding the report to the police, the subsequent investigation, the charges laid, the outcome and the use of various investigative procedures such as videotaping, was collected by the researcher directly from the files stored in Christchurch Central Police Station.

The police file review was comprised of cases where criminal charges were laid only. The files were initially identified through computer listing of complaints to the Child Abuse Unit. The corresponding file numbers were then located by microfiche to obtain the correct file by date and name. Once located from storage the

files were reviewed in the offices of the Central Police Station. Data was obtained directly from police files for this section of the study.

Measures and Operational Definitions.

Marital Status.

Marital status of alleged offenders was classified into three categories of unknown, married and single. Married included those who were married at the time of the inquiry, as well as those who were divorced (married previously). Single included those who had never been married before in the legal sense. Those who were in de facto relationships were also included in this category. A separate category for those alleged offenders who were in de facto relationships was not included as it was difficult to determine this data from many of the cases.

Employment.

Employment categories were assigned into unknown, professional/skilled persons; labourer/ unskilled; beneficiary; and retired. With the exception of the professional/skilled category all offenders were allotted into categories as per the police designations of employment. Those assigned to the professional/skilled category were required to be in current employment at the time of the complaint that required skill or beyond secondary schooling qualifications to do so These included chefs, company directors, teachers and the like.

Race.

As per the police categorisation.

Charges Laid.

Charges were categorised into five main groups depending on the actual charges laid. These were as follows:

Sexual Offence Charges

Charges	Description of the Offences
Intercourse Crimes	
2311	Incest
2412	Sexual intercourse with girl 12 - 16

2413	Sexual intercourse with girl under care and protection
2196/2691*	Anal intercourse with anyone under 16 yrs.
2151	Male rapes female (with weapon)
2152	Male rapes female (no weapon)
2651*	Male rapes female under 12 years
2652*	Male rapes female aged 12 - 16 years

Sexual Violation Crimes

2155	Sexual violation by unlawful sexual connection (with weapon)
2156	Sexual violation by unlawful sexual connection (no weapon)
2655*	Unlawful sexual connection, female under 12 years
2656*	Unlawful sexual connection, female aged 12 - 16 years
2659*	Other sexual violation offences

Indecent Assault Crimes

2141/2631*	Indecently assaults female under 12 years
2144/2634*	Indecently assaults boy under 12 years
2142/2632*	Indecently assaults female aged 12 - 16 years
2145/2635*	Indecently assaults boy aged 12 - 16 years
2143	Indecently assaults female 16 years
2146	Indecently assaults boy 16 years

Indecent Act Crimes

2191	Indecent act with/upon boy 12 years
2192	Indecent act with/upon boy between 12 - 16 years
2193	Induces or permits indecent act with/upon boy aged 12 years
2194	Induces or permits indecent act with/upon boy aged 12 - 16 years
2451/2861*	Does indecent act, male with girl under 12 years
2452/2862*	Does indecent act, male with girl 12- 16 years
2873*	Does indecent act with/upon boy aged 12 - 16 years (male - male)
2453/2863*	Permits indecent act, male with girl under 12 years

2454	Permits indecent act, male with girl aged 12 - 16 years
2843*	Induces or permits and indecent act - girl under 12 years (female - female)
2333	Indecent act with an animal
2213	Indecent act with intent to insult (male offender)

Exposure Crimes

2515	Strict liability - sell/deliver/ offer to any person under 20 years any video recording which is indecent

Non-Sexual Offence Crimes

	Non Sexual Offence Charges
1483*	Commission of crime with firearm
1523*	Assaults with intent to injure (manually)
1533*	Physical assault
1593*	Common assault
1714*	Threat
7125*	Obstruction of justice
7142*	Failure to attend when summonsed

* denotes the new police charge codes that were introduced 1. 7.91.

It should be noted here that these designations of types of sexual offences are not the same as those depicted by the police offences code. For the purposes of this study intercourse charges included rape charges which are classified by the police as sexual violation charges.

Outcomes.

Outcomes were classified as pertaining to the outcome of the initial enquiry. This was the outcome that resulted before an appeal was made. This included categories such as;

1. Convicted and sentenced to imprisonment sentence (including Preventative detention)
2. Convicted and sentenced to supervision and/or periodic detention.
3. Acquitted - where a not guilty verdict was returned by a jury dismissing the defendant from that time.

4. Other outcome - included discharges pursuant of s 347 of the Crimes Act where insufficient evidence was available to bring a case to trial. It also included cases of suicide before the conclusion of the enquiry.

Sentence Outcome.

This category included all cases where a sentence was imposed, and the final outcome after all proceedings had finished, including any appeals made and their outcomes. The categories were defined as:

1. Other - suspended sentence.
2. Periodic detention - any case where a sentence of periodic detention was given. This type of sentence involves an offender spending a limited time per week (usually one day) at a local work centre.
3. Supervision - Any case where a sentence of supervision only was given. Supervision involves any offence punishable by imprisonment whereby the court may release the offender under supervision for a period of at least six months, but not more than two years. They are then considered to be under a fair amount of control and supervision, having to report to the probation officer, be on good behaviour and obey all conditions of supervision stated.
4. Periodic detention and supervision - These sentences may be combined and are intended to give an offender a chance to stay out of prison, as well as the guidance to get a new start in life.
5. If an offence is punishable by imprisonment the statute creating the offence will also specify the maximum term of imprisonment allowable (for example the maximum term of imprisonment for charges of incest is 17 years (2311 - incest father daughter). This is the absolute upper limit and the court will generally have a discretion to impose a shorter sentence. Where the offender is sentenced to two or more offences at the same time, the terms of the imprisonment are served concurrently, unless specified as consecutive or cumulative. The minimum time to be served is specified in s 93 of the Criminal Justice Act (1985). For some offences parole can be obtained after half the sentence is served, however, in respect to sexual violation and intercourse offences where the term of imprisonment imposed is more than two years, the offender is not eligible for parole at all.
6. Preventative detention - In the case of repeated sexual offenders an offender is liable for a sentence of preventative detention if he is not less than 21 years and since attaining 17 years has twice been convicted of a sexual offence. Preventative detention can only be passed by the high court and an offender subject to a sentence of preventative detention is eligible for release on parole after being detained for at least ten years. The probation period is for life. The

sentence is discretionary and is meant to apply to only habitual offenders where it is expedient for the protection of the public that the person be detained for a substantial period.

(Source: Hodge, 1991.)

Relationship of the Alleged Offender.

The categories of relationship were the same as the first three categories designated in Part Two. They included relatives, other known persons and strangers. For victims, details of the relationship of the offender were coded as per the police information.

For offenders the same process applied except in the cases where more than one victim was involved. In these cases the victim with the most charges was depicted as the 'relationship of the offender to the victims', and where the number of charges was equivalent for all victims, the more commonly occurring relationship type was used to designate the alleged offender's relationship to his victims.

Analysis

Generally descriptive analyses were used in this section to establish trends. Where necessary some analysis of details used chi-square to determine any significant results.

2.4.4 PART FOUR.

Courtroom Details.

Table 2-3 Description of Courtroom Details Sample by Date.

Sample by Date	Number
5 October 1989 to 4 October 1990	11
5 October 1990 to 4 October 1991	14
Total	25

Time Span

Table 2-3 depicts the number of cases where a trial was held and involved a child victim witness. The courtroom details were reviewed over a slightly different time span to the general complaints reported in Part Two. Although the Evidence (videotaping of child complaints) Regulations 1990 were operational from 28 July 1990 the court system was not set up to utilise the provisions. It was not until April 1991 that the courtrooms were set up with facilities to use Closed Circuit Television and the videotape equipment for evidence. The only provision from the Evidence Act 1908 that was used before this date was the screen, which came into use on August 1990. The first case that almost went to trial and was prepared for use of the video technology was initially reported on the 5 October 1990. This date was nominated as the time from which videotaped evidence would have had an impact in the courtroom. The time span in which courtroom details were collected was 5 October 1989 to 4 October 1990 (before the availability of video technology) and 5 October 1990 to 4 October 1991 (after the availability of video technology).

Instruments and Procedures

The Courtroom Details form (Appendix C) was developed to obtain as much information as possible regarding the child victim's experience in the courtroom. The review provided information relating to the use of video technology (CCTV, videotaped evidence), the environment of the courtroom during the child's testimony, the child's behaviour, issues relating to competency, examination, recanting and the outcome of the trial.

Information was collected from police files and interviews with officers in charge of the case. The officer in charge of the case follows the case from conception to end and is one of the few people allowed in the courtroom during the child's testimony. All data was collected in the offices of the Christchurch Central Police Station with the exception of one case where the officer in charge of the case no longer lived in Christchurch. In this case all the data (Police File Review forms and Courtroom Details forms) were posted to the officer who completed the forms and sent them back. A telephone conversation was later made to discuss the case for further clarification.

Analysis

Descriptive analyses were used in this section to establish trends. Where necessary some analysis of details used chi-square and t-tests to determine any significant results.

CHAPTER THREE.

Results.

PART ONE.

Child Sexual Abuse Investigations.

3.1.1. Introduction - Description of Child Abuse Unit Procedure and Practice.

Figure 3-1 shows the path a case may follow, once it is reported to either the Police or the Intake team. Generally cases go through the Intake team of the Department of Social Welfare unless they are reported directly to the Police.

A case will be assessed after report by the Intake team, who then decide whether the matter is stranger attack, care and protection or a Child Abuse Unit criterion case. From there the case passes through the local Criminal Investigative Branch, Department of Social Welfare or Child Abuse Unit respectively. Firstly, the victim is referred to the Specialist Services Unit (S.S.U.) where the victim's evidential interview can be taken. Then witnesses are interviewed and medical examinations done as required to gain any corroborating evidence to assist the case. At the same time, the Criminal Investigation Branch and Child Abuse Unit may interview the suspect. The result of the interview is assessed and a decision to continue with prosecution or not is based on the evidence available and made in consultation with the victim and/or their family. The victim receives counselling, whether or not the prosecution proceeds.

Details regarding the role of the police in the investigation of child abuse complaints are more fully elaborated in Appendix D. This information pertains to the direct procedures employed by the current Child Abuse Unit Christchurch.

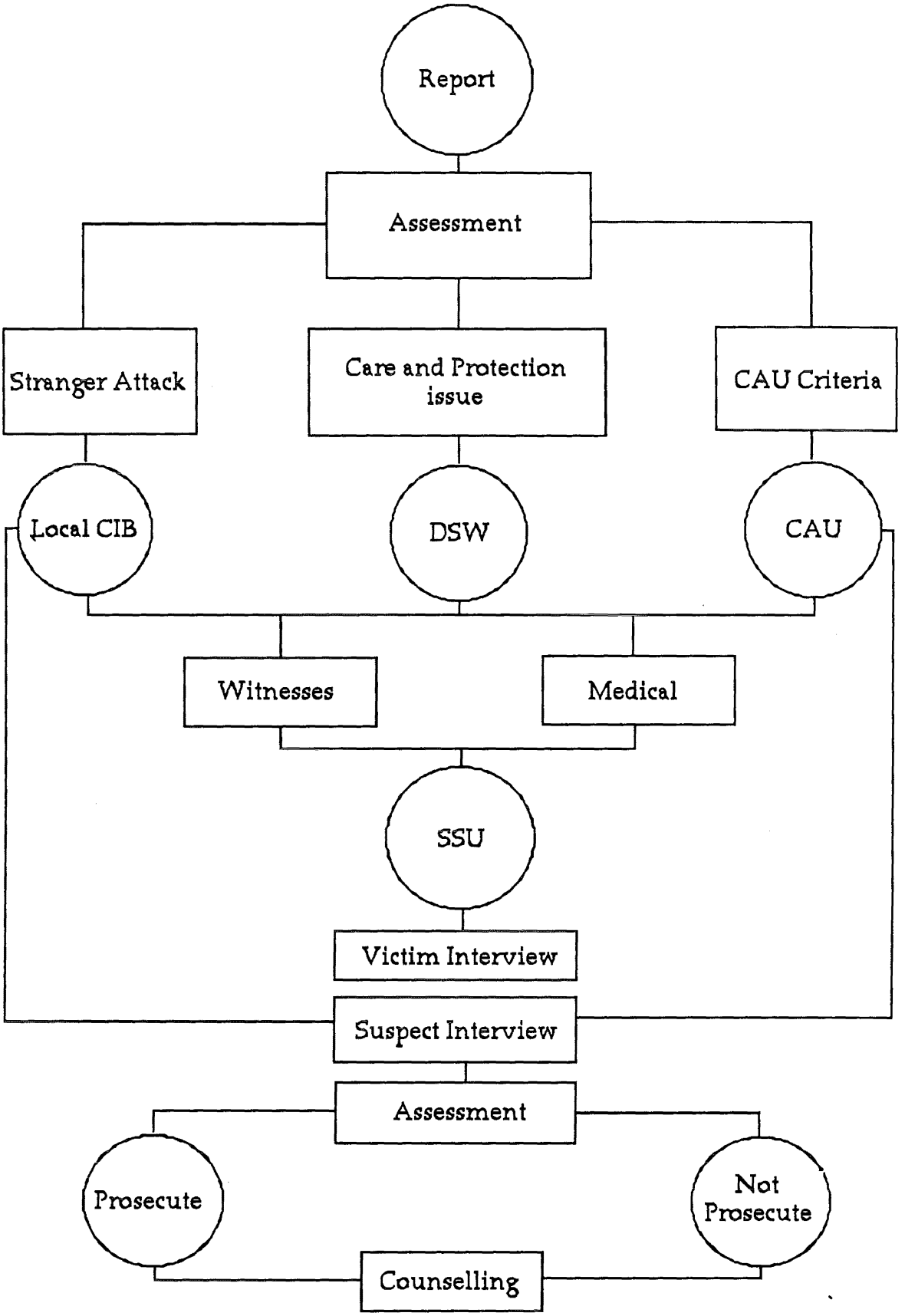


Figure 3-1 Flow Chart of the Designation of Responsibility and Investigative Procedure.

Since Nicola Taylor's 1986 study of 102 cases of sexual abuse, the structure and investigation of child sexual abuse cases have changed dramatically (see Appendix B).

3.1.2. Staff.

Firstly, there is now a Child Abuse Unit. This is a specialist branch of the Police which deals with all complaints of child sexual abuse and serious physical abuse. The Child Abuse Unit was established in 1987 with a team of three staff members; one manager and two investigators. Today there are seven Police staff at the unit; one manager and six CIB detectives. There is also a typist. The staff is currently made up of three females and four males. (See Appendix D for details)

The prerequisites for staff members at the Unit include an interest and aptitude for working in this area. Dedication and desires to serve the needs of the victim are paramount. As mentioned, the outcome of any case is reached by the victim and/or their family. Decisions to prosecute are made on the evidence and in consultation with the victim and/or their parent(s) or caregivers.

Staff members generally remain on the Child Abuse Unit for 18 to 24 months. This does vary and staff members are not bound to stay if they are unable to handle the work. Assessment of staff is done up to one year after commencing with the Unit.
Issues regarding the investigation of child sexual abuse complaints identified were:

- All child sexual abuse complaints and serious physical abuse complaints are dealt with by members of the Child Abuse Unit.
- Once a complaint is made to a member of the Child Abuse Unit, it is generally followed up by the investigator with whom the initial contact was made. This, however, does depend on the current workload of that person.

3.1.3. Training.

Training for staff members at the Unit - Before joining the Unit, it is expected that staff members will have completed the basic Sexual Abuse Course at the Police College. They are also expected to have completed the Victims of Offences Act module, an in-service training module. Staff members from the Criminal Investigation Branch will have completed an induction course also. At present five of the seven staff have Criminal Investigation Branch experienced.

Training for staff at the Unit is ongoing and attended as it is available. A recent Evidential Interview Course with the Department of Social Welfare and Police returned positive feedback, being extremely successful and useful for both agencies. It appears that training is adequate.

3.1.4. New Unit.

A new Child Abuse Unit building is to be officially opened in June 1994. It has been built specifically to cater for child sexual abuse investigations. It is a purpose-built Child Abuse Unit which has been designed with children and victims in mind. The design of the building was based on recommendations and requirements from past child abuse staff members, and includes a child-centred evidential interview room, waiting room, office and other specialist facilities.

3.1.5. Medical Reports.

According to Child Abuse Unit staff members, both current and past, the present standard of medical reports is excellent. A group of doctors known as 'DSAC' (Doctors for Sexual Abuse Care) conduct all examinations of children and adults. A purpose-built clinic is available 24 hours a day where specialised equipment is available, as well as the specialist skill and knowledge of the doctors on duty. They are skilled in treating people after sexual abuse and are considered by staff members at the unit to be an extremely professional body. The health of the child is the primary focus of the examination whilst, at the same time, corroborative evidence will be looked for. The doctors are familiar with the requirements of examinations for court also. It is believed that, where there is a suspicion of abuse, all children should undergo a medical examination, not only to possibly provide evidence to prove a complaint, but as a necessity for the health of the victim.

3.1.6. Liaison with Other Groups.

Progressive commitment to improvement has meant that the Child Abuse Unit has established an excellent rapport with schools, Department of Social Welfare, 'DSAC' doctors and other agencies. There is a good networking with other agencies, especially Department of Social Welfare with which constant contact is made by way of management meetings and regular meetings with the specialist services interviewers. Staff members are also set a target of contacting two outside addresses per year to give information. The Child Sexual Abuse Unit also makes time for any group that wants

information and guidelines, and has been involved in assisting a number of schools set up charters regarding sexual abuse policy.

One group the Child Abuse Unit has been in regular contact with is the Child, Adolescent and Family Sexual Abuse Treatment Team (C.A.T. Team). The team is based in Christchurch, funded by Healthlink South and has four staff members. The C.A.T. Team is a group of multi-disciplinary health professionals who offer:

- Services for all, or any part of a family requiring therapeutic treatment for the recovery of a child or adolescent sexual abuse.
- Assessment and treatment for sexually abused children and adolescents and their families.
- Assessment and treatment for children who are sexually acting out or molesting other children, and their families.
- Assessment and treatment for female adolescents who are sexually acting out and abusing others.

Children and adolescents includes those up to the age of 16 or older if still at school. This team does not deal with male adolescent offenders.

3.1.7. Closed Circuit Television and Videotaping.

It is believed that, if a child can give viva-voce (personal, oral) testimony, this has a stronger impact for a jury. The difference between a three-dimensional person and a two-dimensional person increases the credibility of the witness - and makes them more real as such. However, if the videotaped interview is good, and the subjective (e.g., disposition of child, clarity of disclosure, demeanour, stance, behaviour) and objective (e.g., inclusion of truth, lies and promise, legality of production, oath) requirements are met, requests for evidence-in-chief be given via videotaped interview are made.

3.1.8. Courtroom Preparation.

It is the responsibility of the officer in charge of the case to ensure the child complainant is familiarised with the courtroom setting prior to trial. Resources are available to assist with the orientation such as the booklet and tape *'Being A Witness.'* published by the Legal Resources Trust which also has a videotape about the process to accompany it. A court support group is also available to be contacted regarding any matters related to the court system.

PART TWO.

A Review of Child Sexual Abuse Complaints made to the Child Abuse Unit.

The results in this section were obtained by breaking down the case outcomes into various categories as it is simpler to note the changes that have occurred. Each category has been assessed according to the broad and specific implications it has for the result of the case.

It should be pointed out that the case screening process that operates as cases progress through the Criminal Justice System results in only a small portion of the total number of cases reported resulting in charges being laid (24.6 per cent before the regulations were introduced and 18.9 per cent after this). There are also very few cases that result in the child giving testimony in court and subsequent convictions, for example fraud or perjury, due to this process.

3.2.1. Outcomes of Cases.

Table 3-1 The Outcome of Cases Before and After the Introduction of the Regulations.

Outcome	Before the regulations.		After the regulations		TOTAL
Insufficient to prosecute	30	23.8%	44	26.8%	75
Information Only	9	7.1 %	13	8.0%	22
Transfer to other locat'n,	11	8.7%	4	2.4%	15
Complaint withdrawn	12	9.5%	33	20.1%	45
Unable to pros. accused	3	2.4%	3	1.8%	6
Suicide	1	0.8%	2	1.2%	3
Dealt with by other gp.	12	9.5%	21	12.8%	33
Other	15	11.9%	14	8.6%	29
Guilty plea	20	15.9%	16	9.8%	36
Trials	10	8.0%	11	7.3%	22
Dismissals	1	0.8%			1
False Complaint	2	1.6%	2	1.2%	4
Total	126		164		290

3.2.1.1. Insufficient to Prosecute.

In the year preceding the Evidence Regulations (1990) 30 of 126 (23.8 per cent) cases resulted in either insufficient evidence or no clear offences detectable. In the year following the regulations' introduction 44 of 164 (26.8 per cent) cases fitted this category. There was no significant difference in the number of cases closed due to insufficient evidence (X^2 =0.34, df=1, n=290, N.S.).

3.2.1.2. Information only.

There appears to be no significant difference in the information provided both to and from the police relating to child sexual abuse matters before and after the introduction of the Evidence (Videotaping of Child Complaints) Regulations 1990 (X^2 =0.06, df=1, n=290, N.S.). Before the regulations were specified nine cases of the 126 were for informational purposes only (7.1 per cent). This consisted of eight being reported to the police and one as advice relating to a victim. It appears that information relayed to and from the Child Abuse Unit has relatively remained constant throughout this time period as far as information for recording purposes, but not investigative purposes is concerned. Of the 164 cases investigated after the regulations' introduction thirteen were for information purposes only (8 per cent). Of those thirteen, ten were information received by the police for noting purposes only.

3.2.1.3. Transfer to another location.

Before the regulations eleven cases of the 126 (8.7 per cent) were transferred to other locations for further investigation compared with four (2.4 per cent) after. This was significantly different at the .05 level (X^2=5.7, df=1, n=290, $p<0.05$) . Sometimes if children have been away from a situation, for example, staying at someone else's home, they may disclose sexual abuse to the person they are staying with, who may report it to the Child Abuse Unit. They then hand the information on to the office that covers the area the child lives in. In cases where the offender and child or children are living in different locations the trials are generally held in the child's location on application by the Police.

3.2.1.4. Complaint Withdrawal.

Of 126 complaints made before the introduction of the evidence regulations twelve resulted in the complaint being withdrawn (9.5 per cent). This differed significantly (X^2=6.1, df=1, n=290, $p<0.05$) after the act had passed when thirty-three of 164 complaints were withdrawn (20.1 per cent).

3.2.1.5. Unable to Prosecute the Accused .

Three accused offenders were not prosecuted both before and after the introduction of the Regulations (2.4 per cent and 1.8 per cent, respectively).

3.2.1.6. Suicide.

A separate category covered those offenders who committed suicide prior to being prosecuted. This included one case before the introduction of the regulations and two after this date. Although the number doubled for cases after the regulation, this was not a significantly different (X^2 =0.12, df=1, n=290, N.S.). In one case, that was not included in this section but is relevant to this, the alleged offender went to trial but was discharged after being found not guilty after the 8.5 months duration of the case. However, seven months after the finish of the case he took his own life.

3.2.1.7. Dealt with by Other Group.

In this category twelve out of 126 cases before (9.5 per cent) and 21 of 164 after the Evidence Regulations (1990) (12.8 per cent) were dealt with by other groups. There is no significant difference in this result (X^2=0.76, df=1, n=290, N.S.), suggesting that on average approximately 10.6 per cent of cases reported are dealt with by agencies such as Mental Health institutions, the Youth Aid Section of the Police or the New Zealand Children and Young Person's Service.

3.2.1.8. Other.

Fifteen cases in the year before the regulations introduction (11.9 per cent) and fourteen cases in the year after the regulations coming into being (8.6 per cent) were considered to have 'other' outcomes. More specifically they were in the form of seven warnings (5.6 per cent) issued before the implementation of the regulations and nine (5.5 per cent) issued after. This is not a significant difference (X^2 =0.89, df=1, n=290, N.S.) .

The number of cases that went to the family court did vary somewhat. Only two cases (1.2 per cent) were referred to the family court of the Justice System after the regulation was operational while six cases (4.8 per cent) before this time were. This indicates a proportional drop by four times the amount of referrals over this two year period.

The other methods of clearance varied. Following the evidence regulations being introduced three cases were cleared by other means. This included a situation whereby both the victim and the offender were pre-schoolers, therefore not able to be prosecuted. In another case the victim was sixteen years old and the accused claimed consent on the part of the victim. As the complainant was over sixteen

years consent was of extreme relevance. The police were unable to disprove the suspect's claim that the complainant consented as he did not say no because he was shy and too embarrassed. Although the complainant found what happened to him disagreeable, he did not, in the legal sense, refuse the activity. The accused was later warned.

The third case was cleared because the accused was terminally ill and not expected to live long. The accused did not admit the offence when spoken to by the police, therefore, pursuit of this case would have been long and drawn out. The possibility of the accused not living through the duration of the proceedings was weighted against the time and cost involved with the case. Consultation with the victim and their family resulted in the case being withdrawn.

Before the regulations were introduced only one case was cleared by other means. In this case the victim shifted to live with her grandparents and was no longer living with the accused, and therefore the danger of further offending removed. No further action was taken at this point.

3.2.1.9. Guilty Plea.

The number of guilty pleas entered in each year did not differ significantly (X^2 =2.45, df=1, n=290, N.S.) . Twenty (15.9 per cent) and sixteen (9.8 per cent) guilty pleas were entered before and after the implementation of the evidence regulations, respectively. Of the twenty guilty pleas entered before the introduction of the regulations 4.0 per cent (N=5) were given periodic detention or supervision sentences. Once the regulations were in place with only 2.4 per cent (N=4) resulting in periodic detention or supervision.

3.2.1.10. Trials.

The number of cases taken to the point of a trial did not significantly differ from year to year (X^2 =0.30, df=1, n=290, N.S.) . In 11 cases trials were held before the regulations were introduced and twelve cases after the introduction (8 per cent and 7.3 per cent, respectively). As mentioned earlier, these are the cases where the crown believes a strong case against the accused was pursuable but no guilty plea is entered by the defendant.

3.2.1.11. Dismissals.

Of the 126 cases complaints reported to the Child Abuse Unit prior to the Evidence (Videotaping of Child Complaints) Regulations 1990 functioning, one resulted in a dismissal. In this case the offender was arrested and charged seven days after the

complaint was initiated but on the day of the trial the complainant was too frightened to give evidence and the case was dismissed by the crown. No cases were dismissed in the year after the introduction of the regulations.

3.2.1.12. False Complaint.

Table 3-1 shows that there were four false complaints laid over the entire two years period - two before and two after the introduction of the regulations.

3.2.2. Relationship of the Alleged Offender to the Victim.

Of the 409 victims (total of all complaints data was collected on) which the Child Abuse Unit had complaints of suspected abuse, only four of those were false complaints (see Table 3-2). The false complaint data was separated from the analysis of cases that were considered true. As Table 3-2 shows the majority of victims were offended against by people known to them (n = 143 before the introduction of the regulations, and n = 186 after the introduction of the regulations). 'Relatives' were most often named as the offender. This did not vary from the year before the introduction of the regulations to the year after the regulations were introduced. 'Other known persons' were the next most commonly related person to the victims. Strangers accounted for only a small percentage of all alleged offenders. A separate category was made for those victims who indicated abuse but would not disclose details of the incidents or the perpetrator. This also accounted for a small percentage of the alleged offenders - three per cent on average of alleged offenders both before and after the introduction of the regulations.

Table 3-2 Relationship of the Alleged Offenders To Victims.

Relationship of Alleged Offender	One year Before Regulations	One year After Regulations	total	To 5 Oct 1991.	Total
Relative					
Father	35	32	67	6	73
Step father (incl. de facto)	28	26	54	8	62
Grandfather (incl. Step-)	7	6	13	2	15
Uncle	11	16	27		27
Brother	1	7	8	1	9
Step-brother	2	6	8	1	9
Mother	4	1	5		5

Grandmother	1		1		1
Cousin	3	1	4		4
Father's de facto		1	1		1
Father's Niece's Husband	1		1		1
Guardian	1	2	3	2	5
Total relatives	94 (61%)	98 (48%)	192 (54%)	20	212
Other Known Persons.					
Family friend	20	23	43	7	50
Personal friend	1	7	8		8
Acquaintance	19	23	42	3	45
Neighbour	2	5	7	1	8
Baby-sitter	1	3	4		4
Boyfriend	2		2		2
teacher		8	8	1	9
School bus driver		10	10		10
Boarder	1	3	4	5	9
Mother's boyfriend	3	1	4		4
Other (camp leader/advisors, milkman, mother's employer, mother's girlfriend)		5	5	2	7
Total other known persons	49 (32 %)	88 (43%)	131 (38%)	19	156
Strangers.					
Unknown to the victim	7	10	17	1	18
Friend of friend	1	1	2		2
Total strangers	8 (5%)	11 (5%)	19 (5%)	1	20
Unknown to police/ Known to victim	3 (2%)	9 (4%)	12 (3%)	5	17
Total of each category	154	206	360	45	405
False Complaints	2	2	4		4
Total					409

3.2.3 Duration of Time.

3.2.3.1. Guilty Plea

Time of guilty pleas from the 28 July 1989 to 27 July 1990 and 28 July 1990 to 27 July 1991 differed significantly. The means each period were:

5.53 months (*SD* = 1.5; N=17) before the introduction of the regulations

2.72 months (*SD* = 5.6; N=20) after the introduction of the regulations

(t (35) = -2.17; $p<.05$).

3.2.3.2. Trial

The average time to reach trial were:

Before the regulations: 7.5 months (*SD* = 3.5; n = 11)

After the regulations: 9.25 months (*SD* = 4.8; n = 7)

There was no significant difference between these two durations (t (18) = -1.26, N.S.).

3.2.3.3. Resolution.

The average duration of time to reach the final decision date and the resolutions of the cases were:

Before the regulations: 7.4 months (*SD* = 6.7; n = 37)

After the regulations: 7.9 months (*SD* = 4.8; n = 20)

There was no significant difference between these two durations (t (55) = -0.28, N.S.).

PART THREE.

Case Profiles.

3.3.1. Alleged Offenders

The 70 cases investigated from the 28 July 1989 to 5 October 1991 involved a total of 68 alleged offenders for whom charges were laid. All alleged offenders were involved in separate complaints. No alleged offender was charged more than once during the time period used in the study with offences against other victims, although this did happen for some outside of this time.

3.3.1.1. Age of the Alleged Offenders .

The age of the alleged offenders at the time of the first incident ranged from 14 to 74 years with an average age of 38.7 years (*SD* = 13.1). At the time of reporting the assault(s) the age of alleged offenders ranged from 18 to 75 with an average age being 41.4 years (*SD* = 13.4). Of the 68 alleged offenders 50 per cent of them were under 37 years of age and 75 per cent of them were under 48 years at the time of first offending. At the time of reporting, 75 per cent of alleged offenders were under the age of 49 years.

3.3.1.2 Relationship to the Victim.

All alleged offenders were male and included 41 relatives, 25 known other people and 2 strangers. They included:

	13	fathers
	19	step-fathers (7 step-fathers; 12 de facto fathers)
	5	uncles (3 of whom were step-uncles)
	1	step-brother
	1	grandfather
	1	step-grandfather
	1	guardian
Relatives = **41**		
	11	family friends
	3	personal friends
	4	acquaintances
	2	neighbours

1	boyfriend
1	teacher
1	school bus driver
1	boarder
1	mother's employer

Other Known Non-relative = **25**

2	strangers

Strangers = **2**

3.3.1.3. Living Situation.

Of the 68 alleged offenders 38 (56 per cent) were living with one or more of their victims at the time the incident(s) occurred. The remaining 31 (44 per cent) were not.

3.3.1.4. Marital Status

Table 3-3 Marital Status of Alleged Offenders .

Unknown	3	4 per cent
Married	30	44 per cent
Single	35	52 per cent

The results show that just over half the alleged offenders were single and just under half married.

3.3.1.5. Employment.

Table 3-4 Employment of Alleged Offenders .

Unknown	1	2 per cent
Semi skilled/professional	22	32 per cent
Labourer	10	15 per cent
Beneficiary	30	44 per cent
Retired	5	7 per cent

Table 3-4 shows that over 50 per cent of alleged offenders were not in current employment (51.5 per cent). Only 33 of the 68 alleged offenders were employed at the time of the offence(s) (49.1 per cent).

3.3.1.6. Race of Alleged Offenders.

Table 3-5 Race of Alleged Offenders.

Pakeha	58	85 per cent
Maori	7	10 per cent
Polynesian	3	5 per cent

The race of alleged offenders was predominantly Pakeha with 58 being of Pakeha/European ethnicity. Maori and Polynesian Races made up the minority of alleged offenders (15 per cent).

3.3.1.7. Previous Offending History.

One alleged offender's records of offending history were not available. Twenty-two of the 67 alleged offenders had never been convicted before (32 per cent). Forty-one of the alleged offenders had been convicted previously for offences that were not of a sexual nature (range 1 to 75; 60 per cent). Twenty alleged offenders had previous convictions for crimes of a sexual nature (range 1 to 15). The offender with the most unrelated convictions also had the most related convictions. A correlation of the relationship between the number of related and unrelated prior convictions was significant at the .001 level (Pearson r = .417; $p<.001$).

3.3.1.8. Location of the Abuse

Table 3-6 Primary Location of Abuse by Alleged Offender.

Victim's home	39	57.4 per cent
Offender's home	18	26.5 per cent
Public Place	8	11.8 per cent
Both Victim's and Offender's home	1	1.5 per cent
Unspecified	2	2.9 per cent

Where more than one victim pressed charges against an alleged offender the primary location of abuse was determined by the frequency of locations, (e.g. If there were four victims and three were abused in their own home, the primary location of abuse was designated as "Victim's home"). Where equal numbers of victims were offended against in different locations, the location where the majority of charges being laid occurred determined the primary location of abuse.

For the majority of alleged offenders the primary location of the abuse was in the victim's home (N= 39; 57.4 per cent). Over one quarter of alleged offenders committed the offence(s) in their own dwelling (N=18; 26.5 per cent) and 11.8 per cent occurred in a public place, for example the beach, park or school. This data however varies considerably to the victim's data as only the most common occurring offences were used to determine this category. In only one case did the offending occur at many different places and in two cases the location of abuse was not specified.

3.3.1.9. Victims.

Of the 68 alleged offenders 49 had charges laid with only one victim (72.1 per cent). Nine alleged offenders had charges laid with two victims (13.2 per cent) and four by three victims (5.9 per cent). There were six alleged offenders or whom charges were laid with four or more victims. The maximum number of victims was ten for one alleged offender.

3.3.1.10. Gender of Victim(s).

The victim's were predominantly female with 53 (77.9 per cent) of offending being against female victims only. Nine (13.2 per cent) of offenders were alleged to have committed offences against males only and the remaining six alleged offenders had charges laid for offences against both male and female victims (8.8 per cent). For those offenders where male victims were involved (n=15), 13 resulted in convictions, one of which was for periodic detention and the other 12 for incarceration sentences. One alleged offender committed suicide before the case was resolved and another alleged offender had the case dismissed at trial.

3.3.1.11. Admissions and Pleas.

Of the 68 alleged offenders 44 of them admitted the offences occurred when first spoken to by the police at the initial interview (65 per cent). Twenty-four did not admit to the offences occurring (35 per cent). At the time of entering a plea during the court hearing(s) 42 (62 per cent) entered a guilty plea and 26 did not (38 per cent). It was interesting to note that six (9 per cent) of alleged offenders who initially

admitted the offences either partially or fully entered not guilty pleas during the court proceedings. Two of these offenders disputed the summary of facts regarding the quantity of abuse (see Part Four s.3.4.1.2). Only four (6 per cent) who did not admit the offences during the time of the initial interview entered guilty pleas later.

Table 3-7 Contingency Table of Admissions made by Alleged Offenders and their subsequent Guilty Pleas during the Court Proceedings.

Plea Admission	Not guilty	Guilty	Total
No	20	4	24
Yes	6	38	44
	26	42	68

3.3.1.12. Duration of Proceedings.

Table 3-8 Average Duration of Time Elapsed (months) to Each Stage of Proceedings by Percentage of Alleged Offenders.

Duration of time to Stage of proceeding.	Percentage of Offenders to Each Stage 25%	50%	75%	Total Offenders
Initial Hearing	0.7	1.5	3.0	68
Guilty Plea	1.9	3.0	5.0	42
Trial	6.3	7.7	10.3	25
Sentence	3.4	5.1	8.3	58
Finish	4.0	6.5	9.9	68

Initial Hearings.

The duration from the initial date of the complaint to the initial hearing of each alleged offender took an average of 2.8 months (*SD* = 3.4). The high standard deviation value indicates a broad range of times that cases took to reach this stage of proceedings. This ranged from 1 day after the reporting of the incident to the Child Abuse Unit to 17 months after reporting date. The case that was heard one day after

the report of the incident was one in which a guilty plea was entered. In this case the victim's mother had witnessed the incident providing corroborating evidence to the child's testimony. The offender was a family friend so could be identified and located quickly for questioning regarding the matter.

The skew value of duration was 2.25 indicating a tendency for cases to reach initial hearings sooner rather than later.

Table 3-8 shows the time the percentage of cases had reached each stage of the proceedings. A quarter of cases had reached the initial hearing(s) within .67 of a month (20 days). Half of the cases took 1.5 months and 75 per cent took 3.0 months to reach this stage of the proceedings.

Guilty Pleas.

For those cases where a guilty plea was entered (N = 42) the mean duration from initial report to entering the plea was four months (*SD* = 4.0). The range was half a month (15 days) to 20.3 months. As Table 3-8 shows a quarter of cases that involved guilty pleas had pleas entered by 1.88 months, half by 3 months and 75 per cent of cases only took five months to have guilty pleas entered. As noted earlier two of these pleas did result in trials when the offenders disputed the summary of facts regarding the quantity of abuse.

Trials.

In cases where a trial was held the average duration to this point of the proceedings was 8.44 months (*SD* = 2.88; N =25). The range of times cases took to reach trial proceedings were 4.5 months to 17.5 months. Table 3-9 shows that half of the cases reached trial by 7.7 months and that three quarters reached trial proceedings by 10.25 months. The duration of times recorded here were to the first trial and for three alleged offenders more than one trial was held. For the second and, in one case third, trials the duration's were one month, 3.5 months and two months after the first trial. In one case the third trial was four months after the first trial and two months after the second trial. The average duration for subsequent trials was 2.17 months.

Sentences.

Fifty-eight of the cases resulted in convictions and, hence, sentencing. The average duration to the stage of sentencing was 6.32 months (*SD* = 4.33). The case to reach sentencing in the shortest time was 1 month and the longest time was 21.3 months (1.75 years). As Table 3-9 shows, by 3.38 months a quarter of cases had reached the

stage of sentencing and by 8.25 months three quarters of cases had reached sentencing.

Finish.

The duration of cases from the time of reporting to the time of the final decision was on average 7.92 months with a range from 1.25 months to 33 months (2.75 years). The high standard deviation of 6.03 indicates a broad range of duration to the finish of cases. By the fourth month of the inquiry a quarter of cases had been resolved. By 6.5 months half have been finalised and by 9.88 months 75 per cent of cases have been finalised and filed (see Table 3-9).

3.3.1.13. Charges laid.

There was an average of 3.9 charges laid per alleged offenders, the range being one to twenty charges per alleged offender. The majority of cases had only one, two or three charges laid per alleged offenders (66.6 per cent), The remaining 33.4 per cent of alleged offenders had between 4 and 20 charges laid against them.

3.3.1.14. Guilty Pleas.

Table 3-9 Stages of Guilty Pleas Entered by Alleged Offenders.

Stage of Proceeding	Number	Percentage
Initial Hearing	22	52.4 per cent
Pre-Deps. Conference	5	11.9 per cent
Depositions	9	21.4 per cent
Pre-trial Conference	4	9.5 per cent
Trial	2	4.8 per cent

When looking at the stages the guilty pleas were entered (see Table 3-9) 23 of the 42 offenders (54.8 per cent) entered those pleas during the initial hearing stage. Four offenders entered guilty pleas at pre-depositions conference, nine at depositions and four at the pre-trial conference. The remaining two guilty pleas were not entered until the day of the trial, hence preparation for this would have been made. The two cases mentioned earlier, that resulted in trials after the offenders disputed the summary of facts, initially entered their guilty pleas at Pre-depositions conference and at Pre-trial conference.

3.3.1.15. Prosecution Outcome.

Ten alleged offenders were not convicted of charges against them. As Table 3-10 shows, six of the alleged offenders were acquitted by trials where the jury returned verdicts of not guilty on all charges. Interestingly, of the six acquittals five of them were for offences by relatives. It was also interesting to note that four of these cases all involved charges of intercourse (N = 3) or sexual violation charges (N= 1).

The other case that was acquitted did not involve intercourse charges (one charge of indecent assault) and the alleged offender was a family friend.

Four alleged offenders had charges dropped against them after court proceedings had begun for various reasons. In one case the alleged offender committed suicide a day before he was due to appear at trial. Three of the cases were dismissed using S.347 of the Crimes Act 1961 which requires a submission for dismissal of a case on the grounds of insufficient evidence to continue with court proceedings. In one case this was submitted by the defence counsel after a trial had been held and a mistrial was called. The case was abandoned and the accused discharged. In the other two cases the crown withdrew the charges, both on the grounds that the victims no longer wished to pursue their case. In one case fear of confronting the accused on the day of the trial resulted in the dismissal of the accused. The other was withdrawn after a long inquiry in which it took 21 months to reach the pre-trial conference stage of proceedings.

The outcomes of the 58 offenders convicted resulted in a number of sentences. Table 3-10 shows the variety of sentences given by relationship to the offender. It can be seen by the table that both relatives and other known persons received similar proportions of imprisonment sentences (68.3 per cent and 68 per cent respectively). A much higher percentage of relatives were acquitted than non-relatives (83 per cent being relatives), however, this was not significantly different compared with the offenders who went to trial and were convicted (X^2=0.30, *df* =1, N=24, N.S.).

One offender received an "other " type sentence. In this case the offender was given a 12 month suspended sentence. He was required to pay the victim $500 and do 24 months supervision in lieu of the sentence.

For 58 of the offenders prosecuted and convicted a sentence of periodic detention and/or supervision, imprisonment or preventative detention was given. Two offenders received preventative detention sentences, considered the most serious

type of sentence. One of these offenders was a 'known sex offender' who had already been convicted on six previous occasions since 1950. The other offender was already serving an eight year prison sentence for rape. He had 15 previous related convictions and 75 previous non-sexual offence convictions. Forty-six offenders received imprisonment sentences. The sentences ranged from four months to 10 years imprisonment.

Table 3-10 Outcome of Case By Alleged Offender Relationship to the Victim.

Outcome	Relative	Other Known	Stranger	Total
Preventative Detention	1 (2.4%)	1 (4%)		2
Imprisonment	28 (68.3%)	17 (68%)	1 (50%)	46
Periodic Detention Supervision	2 (4.9%)	1 (4%)		3
Supervision only		1 (4%)	1 (50%)	2
Periodic Detention	3 (7.3%)	1 (4%)		4
Other		1 (4%)		1
Acquitted	5 (12.2%)	1 (4%)		6
Discharge	1 (2.4%)	2 (8%)		3
Suicide	1 (2.4%)			1
Total	41 (100%)	25 (100%)	2 (100%)	68

Supervision and periodic detention were given in combination to three offenders this involved:

Periodic Detention	Supervision
8 months	12 months
6 months	12 months
12 months	18 months

Supervision alone was given to two offenders. One of these was four months in duration, the other for 12 months duration. The 12 month supervision sentence was appointed after an appeal by defence counsel for a lesser sentence than the original imprisonment sentence.

Periodic detention was received by four offenders and ranged from nine months to 18 months (9,10,10 and 18 months for each offender).

Table 3-11 Incarceration Time Resulting from Convictions.

Duration	Number	Sentence Appealed	Guilty Pleas	Percentage of G.P.*
0 - 6 months	3	3	2	67%
7 - 12 months	4	1	4	77%
13 - 18 months	7	3	6	78.5
19 - 24 months	7	2	6	88%
25 - 30 months	3	1	2	75%
31 - 36 months	3	3	2	67%
37 - 48 months	9	2	4	44%
49 - 60 months	4	1	3	75%
61 - 100 months	5	1	3	60%
Over 100 months	2	1	1	50%
Preventative Detention	2	2	1	50%
Total	49	19	34	

* G.P. = Guilty Pleas.

3.3.1.16. Appeals.

Of the 58 offenders sentenced 19 appealed their sentences (see Table 3-12). All the sentences appealed were imprisonment sentences. Two of these included appeals

against conviction as well as sentence. In both these cases the appeals were unsuccessful resulting in the conviction being upheld.

Of the 19 appeals made against sentencing a total of three were made by the crown, the other 14 by the defence. The outcomes of all appeals by the crown and defence are shown in Table 3-12. The three appeals made by the crown were for heavier sentences to be imposed. As can be seen in the table only one resulted in change to the original sentence.

Of the 16 appeals made by defence counsel two were withdrawn before being presented in court. Six were dismissed by the judge as appeals on inappropriateness grounds and therefore unsuccessful, and not heard through the courts. Four were heard but did not result in any changes - both the conviction and sentences were upheld (25 per cent of the total appeals made by defence counsel). There was only one appeal where a prison sentence was changed for a lesser sentence. In this case a prison sentence of four months was abolished altogether and replaced with 24 months supervision and a fine of $500 to be paid to the victim. The reason given for the submission of the appeal was on the grounds that the sentence was inappropriate. The facts argued to win the appeals included the offender's early guilty plea and the nature of the assault not being serious (i.e. there was no apparent effect). The charge laid was 2453 - Permits an Indecent Act - Male with girl under 12 years. A plea was entered one month after the assault was reported.

Appeals were made for both Preventative Detention sentences. One was for both the conviction and the sentence as a result of a trial. The other was for just the sentence. In both instances the appeals were unsuccessful.

Table 3-12 Appeal Outcomes.

Sentence Type	Crown Appeals			Defence Appeals		
Outcome	Impri.	Prev.	Det.	Impri.	Prev.	Det.
Increased sentence	1					
Decreased sentence				4		
No change	1			3	1	
Dismissed	1			5	1	
Withdrawn				2		
	3			14		2

The 58 offenders were convicted of the charges laid against them. Fifteen of them had one charge laid against them (25.9 per cent), 17 had two charges laid against them and eleven had three charges laid (29.3 per cent). As Table 3-13 shows seven perpetrators had four charges laid against them (12.1 per cent) and the remaining 18 had five or more charges laid against them.

Table 3-13 Charges Laid Against Alleged Offenders.

Number of charges	Charges Laid	Total
1	15	15
2	17	34
3	11	33
4	7	28
5	2	10
6	6	36
7	3	21
8	1	8
11	1	11
12	1	12
13	1	13
17	1	17
19	1	19
20	1	20
Total		276

3.3.2 Victims.

3.3.2.1. Numbers

Of the 70 cases reviewed where charges were laid, there were 106 victims in total. In two cases there were more than one offender charged with sexual offences. The range of victims per alleged offender was from one to ten (see offender details).

3.3.2.2 Age

The average age of victims at the time abuse began was 9.4 years (*SD* =3.0) with the range being three years to 16.3 years. The average age of victims at the time of the most recent incident was 10.8 years (*SD* =3.2), ranging from three years to 17 years. The mean age of victims at the time of the report was 12.0 years (*SD* =4.3) with a minimum age of 3.3 years and the maximum age of reporting 24.5 years.

3.3.2.3. Duration

The average duration of abuse was 15.4 months (one and a quarter years) with a maximum duration of 132 months (eleven years). The standard deviation of 21.8 months (674 days) indicates a broad range of duration. The shortest duration was a single incident which occurred only once. This was the modal time for duration with fourteen victims having abuse occur only once. The duration of abuse was skewed slightly to the lower end of the scale due to this, indicating a tendency for the duration of abuse to be shorter rather than longer (skew = 2.49).

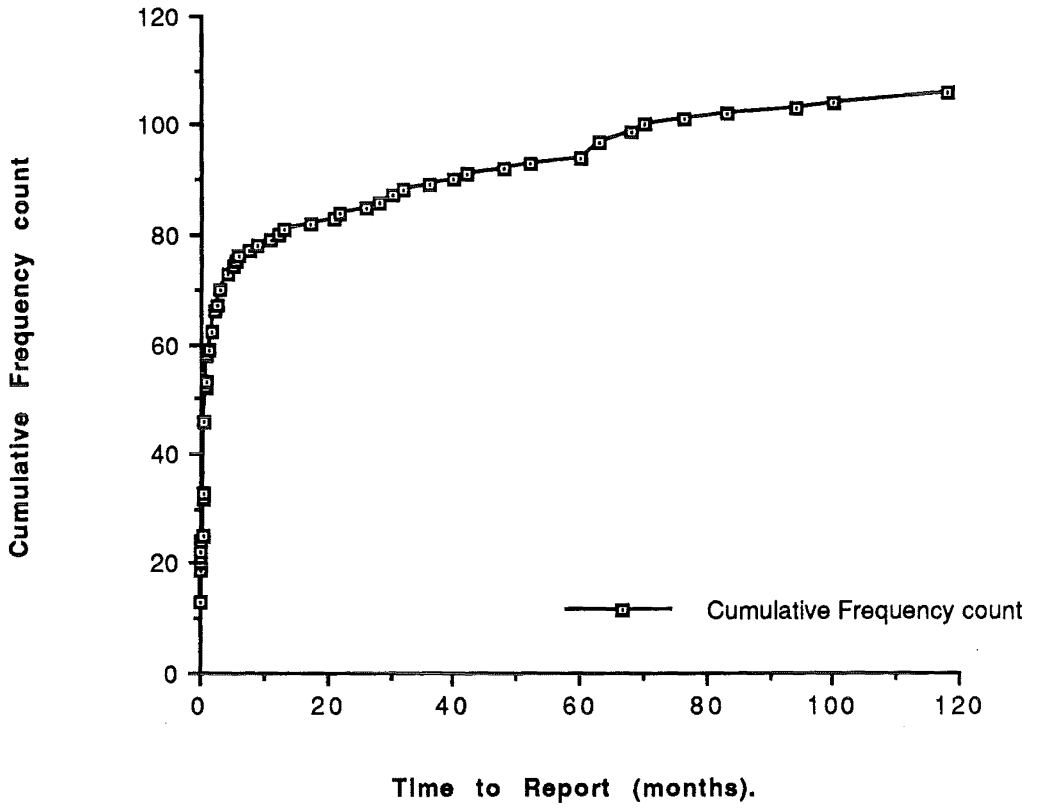


Figure 3-2 The Cumulative Frequency of Time taken from Last Incident of Abuse to Time of Report to the Child Abuse Unit.

Figure 3-2 shows the cumulative frequency of the duration of abuse. This shows that in half of cases reviewed, the abuse occurred for six and a half months or less (N=53rd victim), and in seventy-five per cent of cases the duration of abuse was 18.5 months (N= 80th victim).

The average time taken from the most recent incident of abuse until the time of reporting was 14.8 months (one and a quarter months) - the ranges of report times also varied greatly from one day after the incident to 118 months (nine years, ten months - nearly ten years). Again the standard deviation was high (*SD* = 27.8 months) indicating the duration of last incident of abuse to time of reporting has a broader range of duration than the actual abuse.

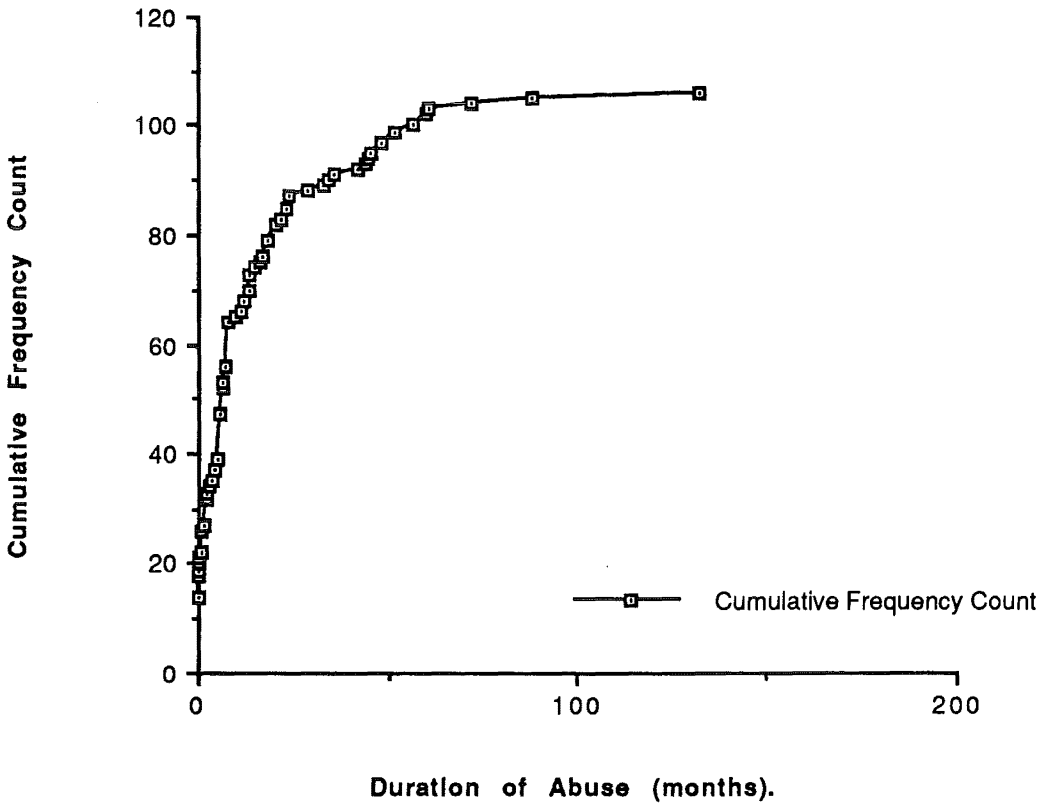


Figure 3-3 The Cumulative Frequency of the Duration of Abuse for victims.

Figure 3-3 suggests that half of the victims reported the abuse within the first month of the last incident (N= 53rd victim), and seventy-five per cent of the victims reported the abuse within one year of the last incident (N= 80th victim).

There was a significant correlation between duration of abuse and duration of time from report to last incident of abuse at the one per cent level (Pearson r =.271; $p<.01$), indicating that the longer the duration of abuse, the more likely it is victims will take longer to report the incident(s). In four cases the incident took place over one day and was reported the next day.

Of the victims that reported their abuse more than one year after the incident(s) occurring (12 to 118 months), only one was acquitted of the charges laid. For 24 of the 27 victims who reported the abuse 12 months after it occurred convictions were determined (88.9 per cent). Of the remaining three alleged offenders, one committed suicide, one was dismissed and the other was acquitted.

It was interesting to note that where the duration of abuse was longer then 12 months 28 convictions resulted for the offenders of 32 victims, one of which was preventative detention. For one of the victims the offender received a sentence of periodic detention. There were four victims who reported the duration of abuse to be over 12 months in which the alleged offender was acquitted of all charges laid.

3.3.2.4. Relationship of Alleged Offender.

The relationship of the alleged offender to each victim varied from the data for offenders, as 27.9 per cent of perpetrators had charges laid by more than one victim, and often the victims did not have the same relationship to the alleged offender.

For fifty-two of the victims, the alleged offender was a known relative and, for fifty-two of the victims, the alleged offender was a known non-relative. Two victims laid charges against two separate offenders. For one of these victims the alleged offenders were both step-uncles, and for the other victim, one was a de facto step-father and the other a family friend.

The distribution of alleged perpetrators to victims included:

4	strangers
19	fathers
21	step-fathers/de facto (7 step-fathers, 14 de facto fathers)
6	uncles/step-uncles (3 step-uncles, 2 with same victim)
4	grandfathers/ step-grandfathers
1	step-brother
1	guardian

Relatives Total = **52**

25	family friends
5	personal friends
2	neighbours
7	teachers
1	boyfriend
1	boarder
10	school bus drivers
1	employer

Other Known Non-relatives Total = **52**

Of the strangers involved with offences against four of the victims, one was someone a family member of the victim had met while out and had been invited home for a few drinks. Another stranger was a friend of a friend - the victim was visiting the alleged perpetrator with his friend when the assault took place. In the other case that involved a stranger, the alleged offender had charges laid for offences against two victims he had baby-sat one night. This particular offender had a prior history of investigations of sexual abuse complaints which were dealt with by the Youth Aid Section of the police due to his age at the time of the complaints.

Table 3-14 Relationship of Alleged Offender by Age of Victim at Time of Report.

Age / Relationship	3	4	6	7	8	9	10	11	12	13	14	15	16	17	18+	Total
Relative		1	1	1	1	5	3	6	5	3	6	6	3	3	8	52
Other known	1	1	1	3	10	4	5	7	3	3	2	3	3	5	1	52
Stranger		1				2						1				4

3.3.2.5. Race of the Victims:

Table 3-15 Race of the Victims.

Race	Number	Percentage
Unknown	7	6.6 per cent
Pakeha	74	69.8 per cent
Maori	20	18.9 per cent
Polynesian	5	4.7 per cent

As can be seen in Table 3-15, the race of victims was predominantly Pakeha, with 74 of the 106 victims being European/Pakeha.

3.3.2.6. Medical Examinations.

For 56 of the 106 victims (52.8 per cent), medical examinations were carried out. Of those 56 victims, only in 27 cases did the examination confirm the abuse (48.2 per cent). The remaining 29 cases found no conclusive evidence directly suggesting abuse had occurred.

Table 3-16 Medical Examination by the Relationship of the Alleged Offender to the Victim.

Medical	Relative	Known	Stranger	Total
No	16	32	2	50
Yes	34	20	2	56
	50	52	4	106

There was a significant correlation between whether a medical examination was done and the relationship of the alleged offender (X^2=8.93, df =1, n =102, p <.01). It appears that if the alleged perpetrator was a relative of the victim, it was more likely that a medical was done. It was significantly less likely a medical examination would be carried out if the alleged perpetrator was known but not related.

Medical examinations were also more likely to be carried out with sexual abuse incidents such as intercourse and sexual violation (see Table 3-17).

However, only in the cases where intercourse was charged did the medical examination confirm over half the incidents. Hence, although charges of sexual violation and intercourse were more likely to have medical examinations carried out, only intercourse-type offences were likely to be confirmed by the medical examinations.

Table 3-17 Frequency of Medical Examination by Type of Assault.

	No Medical	Medical	Total	Confirm	Not Confirm	Percent Confirm
Intercourse	7	20	27	13	7	65%
Sexual Violation	5	24	29	13	11	49%
Indecent Assault	38	38	76	17	21	22%
Indecent Act	15	14	29	6	8	21%
Exposure	1		1			0%

3.3.2.7. Location of the Abuse.

These results (see Table 3-18) varied from that of the alleged offender's results due to the fact that where there were more than one victim per offender the location of abuse had to be generalised. The majority of victims were abused in their own home (*N*=48; 45.3 per cent). Twenty-five victims were sexually abused in the offender's home (23.6 per cent), and 26 were offended against in a public place (24.5 per cent). It is important to note here that, in one case alone, ten victims were offended against in a public place (school bus) so this brings the total of this figure up. One victim was offended against by two alleged perpetrators - one in her own home by her step-father, the other at the offender's home by a family friend. Three victims were abused by a personal friend of theirs who would take them on various outings and abuse them there - these included parks, camping grounds, beaches

and the like. There were three cases where the place of the offence was not documented.

Table 3-18 Location of Abuse.

	Relationship of Alleged Offender			
	Relative	Known Other	Stranger	TOTAL
Victim's home	39	8	3	50
Offender's home	9	15	1	25
Public place	2	24		26
Other		2		2
Unknown	1	2		3
	51	51	4	106 victims

Table 3-19 The Relationship between Location of Offence(s) and the Type of Offence.

	Intercourse	Sexual Violation	Indecent Assault	Indecent Act	Exposure
Victim's home	16	17	33	20	1
Offender's home	8	9	21	6	
Public place	3	2	20		
Other both			1	2	
Unknown		1	1	1	
TOTAL	27	29	76	29	1

3.3.2.8. Living Situation.

Of the 106 victims, 40 had the alleged perpetrator living with them permanently. One victim laid charges against two alleged offenders, one of whom was living with her, the other not. The remaining 65 victims, (61.3 per cent) did not have the offender living with them. This indicates that the majority of alleged offenders were not living with the victims when the abuse occurred.

3.3.2.9. Gender of Victim.

In the sample of 106 victims, 25 were males (23.6 per cent) and 81 were females (76.4 per cent). This were significantly more females offended against in this sample (X^2 =29.6, df=1, n=106, p<.0001). Interestingly the majority of offences against male victims were alleged to be committed by 'other known persons' (56 per cent; N =14). Only 32 per cent of male victims were abused by relatives (N =8), and 12 per cent by strangers (N =3).

3.3.2.10. Victim Impact Statements.

Victim Impact statements were prepared for all victims whose cases resulted in a conviction (N=97), and were required for sentencing.

3.3.3. Charges Laid.

A total of 276 charges were laid and pursued from 28 July 1989 to 5 October 1991.
As Table 3-20 and Table 3-21 show, the most common charge laid was of indecent assault type (39.5 per cent) with sexual violation and intercourse charges being the next most common (23.2 per cent and 18.5 per cent respectively). Only 1.1 per cent of charges laid were exposure type charges.

The number of victims to lay each charge was also highest for indecent act type offences, with 76 individual victims laying charges of indecent act (71.7 per cent); 29 victims laid charges of indecent acts and sexual violation (27.4 per cent for both), and a quarter (25.5 per cent) laid charges of intercourse.

Thirty-nine victims (36.8 per cent) laid only one charge of any offence. The other 67 victims laid between two and nine charges each against offenders.

Table 3-20 Number of Charges Laid by Classification.

Number of victims to lay each type of charge	Total Charges	Percentage	Total Victims	Percentage
Non-sexual charges	8	2.9%	7	6.6 %
Exposure	3	1.0%	1	0.9 %
Indecent Act	41	14.9%	29	27.4 %
Indecent Assault	109	39.5%	76	71.7 %
Sexual Violation	64	23.2%	29	27.4 %
Intercourse	51	18.5%	27	25.5%
Total	276	100%		

Table 3-21 Number of Charges Laid of Each Type of Offence..

Charge Code	Description	Total
	Sexual Offence Charges	
Intercourse Type Charges		
2311	Incest	
2412	Sexual intercourse with girl 12 - 16	6
2413	Sexual intercourse with girl under Care and Protection.	1
2196/2691*	Anal intercourse with anyone under 16 yrs	11
2151	Male rapes female (with weapon)	1
2152	Male rapes female (no weapon)	19
2651*	Male rapes female under 12 years	9
2652*	Male rapes female aged 12 - 16 years	3
Sexual Violation Charges		
2155	Sexual violation by unlawful sexual connection (with weapon)	1
2156	Sexual violation by unlawful sexual connection (no weapon)	41
2655*	Unlawful sexual connection, female under 12 years	20
2656*	Unlawful sexual connection, female aged 12 - 16 years	1
2659*	Other sexual violation offences	1
Indecent Assault Charges		
2141/2631*	Indecently assaults female under 12 years	72

2144/2634*	Indecently assaults boy under 12 years	9
2142/2632*	Indecently assaults female aged 12 - 16 years	18
2145/2635*	Indecently assaults boy aged 12 - 16 years	8
2143	Indecently assaults female over 16 years	1
2146	Indecently assaults boy 16 years	1
Indecent Act Charges		
2191	Indecent act with/upon boy 12 years	3
2192	Indecent act with boy between 12 - 16 years	3
2451/2861*	Does indecent act, male with girl under 12 years	2
2452/2862*	Does indecent act, male with girl 12- 16 years	4
2873*	Does indecent act with/upon boy aged 12 - 16 years (male - male)	4
2453/2863*	Permits indecent act, male with girl under 12 years	14
2193	Induces or permits indecent act with/upon boy aged 12 years	1
2194	Induces or permits indecent act with/upon boy aged 12 - 16 years	1
2843*	Induces indecent act - Girl under 12 years	2
2213	Indecent act with intent to insult (male offender)	3
2454	Permits indecent act, male with girl aged 12 - 16 years	3
2333	Indecent Act with an animal	1
Exposure Type Charges		
2515	Strict liability - sell/deliver/ offer to any person under 20 years any video recording which is indecent	3
	<u>Non Sexual Offence Charges</u>	
1523*	Assaults with intent to injure (manually)	1
1483*	Commission of crime with firearm	1
1533*	Physical Assault	1
1593*	Common Assault	1
1714*	Threat	1
7125*	Obstruction of justice	1
7142*	Failure to attend when summonsed	1
Total		276

* denotes the new charge codes that came into effect: 1. 7. 91

It should be noted here that the police codes for '2151 Male rapes female (with weapon)' and '2152 Male rapes female (no Weapon)' were old police codes that did not distinguish age, and therefore, included children as well. The charge '2143 Indecently assaults female over 16 years' was included because the victim was still under 17 years of age at the time the charges were laid, therefore, still classified as a child and entitled to use the provisions set out by the Evidence Act 1908.

For intercourse charges ranging from 2311 of incest to rape 2652, the most commonly occurring charge was 2152 -Male rapes female (no weapon), N=19; 37.3 per cent). The next most common intercourse charge was 2196 - Anal intercourse with anyone under 16 years,(N=11; 21.6 per cent) and 2651- Male rapes female under 12 years (N=9; 17.6 per cent).

Sexual violation type charges included five types, the most common one being 2156 - Sexual violation by unlawful sexual connection (no weapon),(N=41; 64 per cent). The next most common sexual violation charge laid was 2655 - Unlawful sexual connection; female under 12 years, (N=20; 31 per cent). The remaining three charges were laid only once each (see Table 3-21).

Indecent assault charges included ten different charge codes. Eight of the codes doubled as they described equivocal offences, some being old charge codes and some being new charge codes (see Methodology). This left six individual types of codes, the most common being 2141 - Indecently assaults female under 12 years, (N=72; 66.1 per cent). Code 2142 - indecently assaults female 12 to 16 years was laid 18 times - only 12.8 per cent of the indecent assault charges laid. The four charges of 2144 - Indecently assaults boy aged 12 to 16 years.

Indecent act type charges included the greatest number of charge codes (N=13), of which ten were categorised. The most commonly charged code was 2453/2863 - Permits indecent act, male with girl under 12 years, which was laid 14 times (34.1 per cent). The other nine charge codes were laid one to four times - considerably less than the 2453 code (2.4 - 9.8 per cent).

Exposure charges included only one specific charge 2515 - Strict liability - sell, deliver/ offer to any person under 20 years any video recording which is indecent. This was laid by one victim in relation to three separate incidents.

Non-sexual charges were laid by seven victims, with a total of eight charges being laid. Only one victim laid non-sexual charges against an offender twice.

Table 3-21 shows that the most commonly laid individual charge was an indecent assault charge 2141 (N=72). The next most common was a sexual violation charge 2156, although this was nearly half the total of the indecent assault charge 2141. The next group of charges that were frequently charged were intercourse charge 2152 (N=19), sexual violation charge 2655 (N=20) and indecent assault charge 2142/2632 (N=18).

The most common indecent act charge was 2454/2864 with a total of 14. The other 11 charges were laid one to four times.

PART FOUR.

Trials.

3.4.1 Trials

There were a total of 30 trials involving 48 victims and 25 alleged offenders. Fourteen trials involving 17 victims and 11 alleged offenders were held before the availability of video technology (see Table 3-22). The remaining 16 trials involving 31 victims and 14 alleged offenders were held in the one year period after the availability of video technology in the courtroom (see Table 3-22).

Table 3-22: The Number of Trials, Victims and Alleged Offenders Involved in Cases Before and After the Availability of Provisions Set Out in The Evidence (Videotaping of Child Complaints) Regulations (1990).

	Trials	Victims	Alleged Offenders
Before	14	17	11
After	16	31	14
TOTAL	30	48	25

3.4.1.1. Number of Trials

All but five of the victims were involved in only one trial. For three of the victims of one perpetrator, a total of three trials were held. The first was abandoned when a crown witness sat too close to a juror during lunch break. The second resulted in a hung jury, and the third resulted in a conviction. Only data from the final trial was used in the assessment. The other case involved two trials, the first of which resulted in a hung jury requiring another trial which then resulted in an acquittal. The second trial data was used in assessment. It was interesting that the results for each trial did not vary - that is, the results obtained for all the trials did not differ for each victim. The other case also resulted in a hung jury verdict, calling for another trial. In the second

trial the accused was acquitted of all charges laid. However, data were not used as the victim was treated as an adult, having turned 17 before the proceedings had begun.

3.4.1.2. Child Witnesses at Trial.

In five out of the 30 trials, there were no child witnesses involved so details were not collected. As mentioned above, one victim turned 17 a few days before the charges were laid so, therefore, was treated as an adult. This victim was involved in two trials regarding the same accused offender. These trials resulted in a hung jury and an acquittal respectively. In another case the four victims were all treated as adults. Although one victim was 16.5 years at the time the charges were laid, the special provisions were not implemented. This case resulted in conviction and imprisonment for ten years. Both these cases were reported and investigated before the provisions for video technology set out in The Evidence (Videotaping of Child Complaints) Regulations (1990) were available in courtrooms.

Two trials that ran after the availability of video technology in the courtroom involved very young children, one four years and the other 4.25 years old. In both these trials videotaping equipment was available for use but was not used. In this case it was due to the child's age. In the other case the tape was not admissible as evidence at trial because it had not been viewed at depositions hearing. As the child was also very young in this case she was not called to give evidence. In both trials only adults made appearances. In one trial the accused, a family friend, was acquitted, and in the other, the accused, a stranger, was convicted and imprisoned.

The only other victim who did not have details recorded regarding his trial was over 17 years old and treated as an adult. None of the special provisions applied to him. However, the other victim in this trial was 16 years old at the time the charges were laid and his data was used in the analysis.

There were eight victims whose data was not included due to the circumstances described above. A total of 40 victims had data collected about the trials they appeared in. For the four victims who appeared in more than one trial and had data collected, the trial that produced the result was used in analysis. That is, for one victim the second trial of two was used and for the other three victims the third trial of three was used in the analysis. As mentioned earlier, the trial details obtained for each of these victims did not differ in content. Subsequent trial details did not vary from that of the previous trial(s) held.

For 17 of the victims video technology was not available for use at the trial. Of these 17, only 12 were considered children (under 17 years) and had details recorded about their trials. The other five were treated like adults (as mentioned earlier). For the remaining 31 victims, video technology was available and details of three victims was not available, two because they were too young and one because he was treated as an adult. The trial details for the other victim were collected.

Details were available for the victims of 21 alleged offenders, of which four were acquitted (19 per cent), one was discharged, and 16 were convicted and sentenced (76.2 per cent). Of those 16, only two received non-prison sentences (9.5 per cent), the remainder receiving imprisonment sentences (see section 3.3.1.15).

3.4.2 The Alleged Offenders.

3.4.2.1 Characteristics.

The average age of alleged offenders who went to trial was 48.7 years (*SD* =12.1; range 40; 24-64). This is seven years older than the average age calculated from the entire sample of alleged offenders (see Section 3.3.1.1; *M* = 41.4 years).

It was also noted that over half the alleged offenders who defended charges laid against them at trials were not currently in employment (Beneficiaries=56%; Retired=4%). Of the remaining 40 per cent of alleged offenders in this sample, three were labourers (12%) and seven were skilled or semi skilled workers (28%).

3.4.2.2. Admissions and Pleas.

Of the 25 alleged offenders who went to trial, seven of them admitted or partially admitted the offence(s) to Police staff during the investigation of the complaints.

For two of the cases in which trials were held, guilty pleas were entered prior to the trial. However, at sentencing, the offenders disputed the summary of facts regarding the number of times the offences occurred. For one of these trials there were no provisions available for the victim, as the trial was held before The Evidence (Videotaping of Child Complaints) Regulations (1990) were implemented. The defendant pleaded guilty to one charge of sexual violation and disputed the quantity of abuse being charged at sentencing. A trial was then arranged in the High Court in front of a Judge only to determine the nature and quantity of abuse. Interestingly, the defendant who claimed that only one incident had occurred, stated "On that time....."

during a discussion of the alleged incident, and basically admitted there had been more than one incident. For this he received 3.5 years imprisonment.

The second case was held after the Evidence (Videotaping of Child Complaints) Regulations (1990) were implemented and accessible, however, the victim requested not to use the video technology or screen. In this case the victim had laid charges against two offenders, both of whom pleaded guilty at depositions, but one disputed the summary of facts, claiming he pleaded guilty to only one count of rape and not guilty to the other two counts. The trial was held, as with the other case above, to determine the quantity of abuse. The jury returned guilty verdict on one count and not guilty on the other, due to a lack of clarity regarding the date of the incident.

In one of the 30 trials, the defence made an application for discharge due to inconsistencies between the victim's and witnesses' testimonies. This was accepted and the trial abandoned prior to a verdict being given. However, details of the trial were collected.

3.4.3. Victims.

Figure 3-4 Frequency Count of the Victims' Ages Who went to Trial.

The average age of the victims who went to trial was 13.33 years (*SD* =3.8). The youngest child victim to appear in court was seven years old, and the oldest was 22.5 years (see Figure 3-4). Those over 17 years when charges were laid were treated as adults and data was not collected. For the forty victims who had data collected regarding trials the average age was 12.33 years (*SD* =2.9), the range being seven to 17.75 years at the time of the trial (see Figure 3-5). For both these sets of data the ages were skewed slightly to the left indicating that there were more younger victims than older victims who appeared in court (Skew = 0.410 and 0.566, respectively).

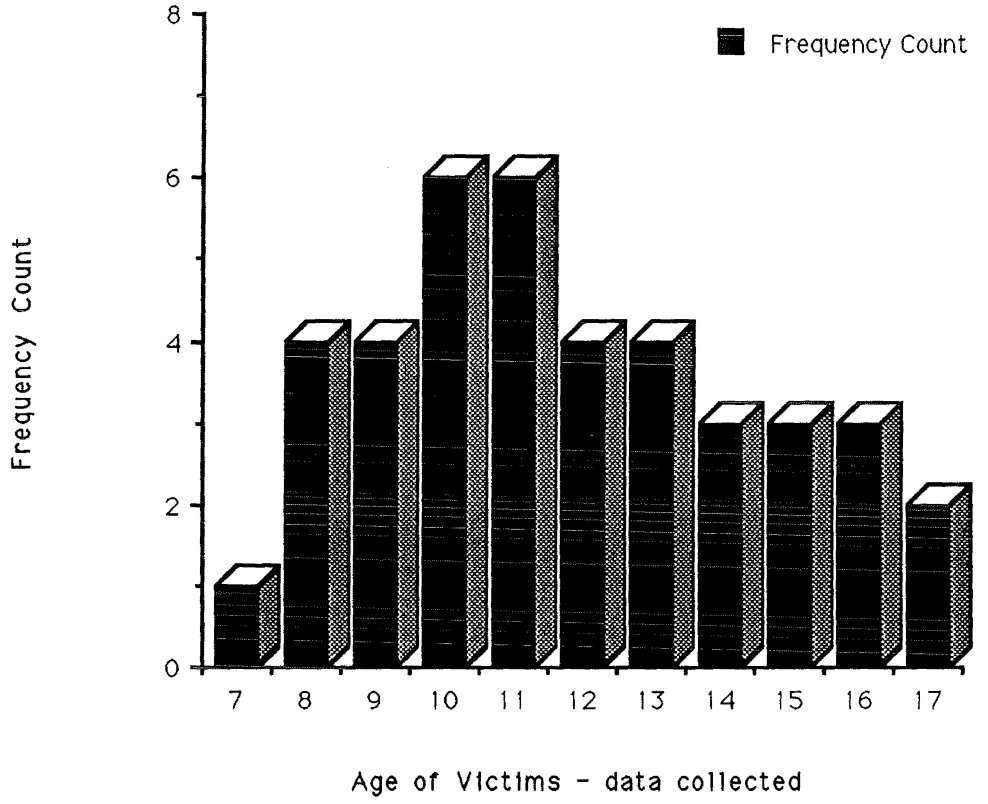


Figure 3-5 Frequency Count of the Ages of Victims who had Data Collected from a Trial.

Twenty-eight of the victims that went to trial had medical examinations carried out and for 12 (42.9 per cent) victims the examination confirmed the abuse. However, the confirmation of abuse only applied to 25 per cent of the total number of children who went to trial.

3.4.4. Charges Laid

Table 3-23 The Distribution of Charges Laid at Trials.

Trial No.	Intercourse	Sexual Violation	Indecent Assault	Indecent Act	Exposure	Non-Sexual	Total
1			3		3		6
2			1	1			2
3			3				3
4	1	1					2
5			6				6
6	7						7
7		4	1			1	6
8	9	2	4	2		3	20
9		1		2			3
10	2						2
11		2					2
12	2		2				4
13			1				1
14		1	1				2
15	3						3
16	1	3	2	1			7
17		11	1	1			13
18	5	1	11	1		1	19
19		3	3	2			8
20	3		1				4
21			2				2
22	5		1				6
23	1	2					3
24	4		2				6
25			11				11
Total 148		43	31	56	10	3	4
(per cent)	84.3%	48.4%	51.4%	24.4%	100%	57.1%	53.6%

Of the 48 victims trials were held, the majority were for indecent assault charges, sexual violation charges and intercourse charges. Of the total number of charges laid (N=276), the proportion that involved trials was very high. Table 3-23 shows the number of charges for each type of offence that went to trial and the percentages of the total number of each charge these represented. Over half of the charges laid against alleged offenders were resolved by trial (53.6 per cent). Interestingly 84.3 per cent of all intercourse charges were dealt with at trial, indicating that there is certainly a high chance of a trial being held if intercourse charges are laid.

Approximately half of all sexual violation and indecent assault charges (48.4 per cent and 51.4 per cent respectively) were dealt with by trial. However, under a quarter of indecent act charges laid (24.4 per cent) resulted in trials being held. This may reflect the severity of the maximum penalty of each of these charges, indicating that the more severe the charge penalty is the more likely the charges will be defended. Although exposure charges were all dealt with by trial there were three of these charges laid against one alleged offender and it does not represent the entire population.

3.4.5. The Analysis of Trials.

3.4.5.1. Competency

Of the 40 victims data was collected from regarding trials, three (27.3 per cent) from before the availability of video technology and 20 (69 per cent) from after the availability of video technology were questioned regarding competency. There was a significant difference in the number of child victim witnesses that were questioned about their competency before and after the availability of video technology (X^2=7.4, df=1, N=40, p,.01). The remaining 17 victims were not questioned with respect to competency(nine from before and 8 from after the availability of video technology).

Table 3-24 Areas Covered by the Judge when Questioning Child Witnesses about their Competency to Appear in Court.

Areas Covered	Before availability of Video technology	After availability of Video technology	Total	%
Age		10	10	43%
Grade		9	9	39%
Moral Obligation		3	3	13%
Meaning of Oath	1	15	16	70%
Added responsibility to tell truth	1	17	18	78% *
Ability to communicate		3	3	13%
Seriousness of the occasion	1	8	9	39%
Belief in God, religious belief		2	2	9%
Promise to tell the truth	3	17	20	87%
Other		6	6	26%
Total Number of Witnesses questioned	3 (25 %)	20 (71.4%)	23	100%

(* significant difference $p<.05$)

The 23 child victim witnesses questioned about their competency to give evidence were all were questioned by the judge. The areas covered either directly or indirectly are shown in Table 3-24.

For the six witnesses who had "other" areas covered in their competency questioning, four were given an example by the judge regarding truth and lies and tested on their understanding of the nature of the example given. One victim was questioned about her drug use to determine whether she was under the influence of drugs at the time of the trial, and this would affect her ability to testify. A medical examination was done to confirm her ability. The sixth victim was required to repeat the oath as part of her competency assessment.

The data in Table 3-24 suggest that issues regarding the "meaning of the oath"(70 per cent), "the promise to tell the truth"(87 per cent) and the "added responsibility to tell the truth"(78 per cent) were the main areas of questioning by judges in competency evaluations. Nearly half the victims were questioned by the judge in relation to "age"(43 per cent), "grade" (39 per cent) and "seriousness of the occasion"(39 per cent)

to determine competency to testify. There was also a greater number of child witnesses questioned regarding competency after the video technology was available for use.

Table 3-25 Areas covered During Questioning of Competency by Age.

Age	6	7	8	9	10	11	12	15	17	Total
area covered										
Number of victims	1	1	4	5	4	4	2	1	1	23
Age		1	4	2	3					10
Grade		1	4	2	2					9
Moral Obligation		1	2							3
Meaning of Oath		1	4	3	3	2	2	1		16
Resp. to tell truth	1	1	4	4	3	3	2			18
Ability to Comm.		1	2							3
Seriousness of Occ.		1	4	1	2		1			9
Religious belief			1		1				2	
Promise to tell truth	1	1	4	5	3	4	2			20
Other		1	1	2	1				1	6
TOTAL	2	9	30	19	18	9	7	1	1	

In the breakdown of competency questioning by age (Table 3-25) it can be seen that the majority of those questioned were from eight to eleven years old. Mainly younger children were questioned regarding competency, with eight year old children being questioned in most areas (N=34; M per child = 8.5 areas covered).

3.4.5.2. Evidence-in-chief.

The mode of presentation before the availability of video technology was limited to only oral testimony and screens. After the availability of video technology the range of options changed considerably (see Table 3-26). There was a significant difference in the number of children to use viva-voce presentation (Pearson r = 10.98, df=1, $p<.001$), which is to be expected. However, there was no significant difference in the number of children to use screens.

For all but three victims, a support person accompanied them to the stand in the courtroom or CCTV room, and in all those 37 cases, the support person remained in the courtroom or CCTV room with them as well as a court officer. The three victims who

did not have support persons accompanying them were not covered by the legislation that allowed this. Two were cases investigated before the implementation of The Evidence (Videotaping of Child Complaints) Regulations (1990), and the other was 17 years at the time of the charges being laid, so was not covered by the provisions and treated like an adult. The officer in charge of the case was always present for the duration of the case and was seated in the courtroom throughout the trial.

Table 3-26 Mode of Presentation of Evidence-in-chief.

	Viva-voce*	Screen	CCTV	Videotape	Video & Screen	Video & CCTV	TOTAL
Before	8	4	0	0	0	0	12
After	4	3	2	10	6	3	28
TOTAL:	12	7	2	10	6	3	40

(* significant difference $p<.001$)

3.4.5.3. Videotaped Evidence.

Evidential interviews were done for five of the child victims who went to trial before the availability of video technology in court and 26 child victim witnesses after the availability of video technology in court (total = 31). However, for 28 of the child victim witnesses were the tapes able to be used. Of these 28 child witnesses, 19 presented their evidence-in-chief via videotaped interviews. Six of these witnesses also used a screen to complete their evidence-in-chief and three used closed circuit television (CCTV) to complete their evidence-in-chief.

Nine of the child victim witnesses who were able to utilise the video technology did not do so. In three of these cases the tapes were not requested for use due to incomplete truth and lies sections. In three other cases the decision was made not to use the tapes as it was believed the victim giving oral testimony would have more impact on the jury and the witnesses were believed to be capable of withstanding the rigours of the courtroom.

For one victim where two offenders were involved, both offenders pleaded guilty to the charges laid. However, one disputed the summary of facts regarding the quantity of abuse and a trial was held to determine this. The video evidence was not used in this trial as it would have been too difficult to edit the facts relating to only one offender and

not the other. This would have produced a very disjointed tape which would not have portrayed the victim's evidence well. The decision not to use the tape was made on these grounds, however, the victim chose not to use any of the special provisions available to her during the trial and gave oral testimony.

In another case one of the victims in a multiple victim trial presented her evidence by statement instead of videotape as the nature of the abuse was not considered serious and no tape was ever made.

The remaining victim did request evidence-in-chief be presented by videotaped interview, however, the quality of the sound of the tape was poor due to the location of the interviewing being moved at the time this tape was made. The tape was declared inadmissible and the child witness gave evidence by CCTV. Hence, in only one instance that a tape was requested was it declined and this was due to technical problems, not the content.

Of the 19 witnesses who used videotaped interviews for evidence-in-chief, four of those tapes were edited in some way (22.2 per cent). In one case this was because reference to the alleged offender's prior prison history was mentioned and had to be omitted so as not to bias the jury's decision. In another case a statement was read in place of the segment of the videotape so this section was edited from the tape. The two other cases of editing were for the same trial where one victim had a section edited from the videotaped interview that was irrelevant to the case. The other victim's tape was edited because the section was considered hearsay and not admissible at the trial.

All the children were present for the viewing of the videotape whether it was in the courtroom or in the CCTV room. They were also asked to confirm they had seen the video presented and that what was on the tape occurred at the interview.

3.4.5.4. Cross Examination.

Cross-examinations and re-examinations were carried out for all witnesses. Twelve child witnesses were examined before the availability of video technology, eight of whom did not use any aids (see Table 3-27). Twenty-seven child witnesses were examined from the time video technology was available in court, the majority of whom used screens to shield them from the accused in court. Only five witnesses used the CCTV live link system. There was a significant difference between those who used viva-voce testimony in cross-examination before the availability of video technology and those who used this mode after the availability of video technology (X^2= 10.98,

df=1, n=40, p<.001). There was also a significant difference in the use of screens for this stage of the trial before and after the availability of video technology (X^2=8.5, df=1, n=35, p<.005).

All but one victim was questioned by the judge regarding the cross examination. The questioning in these instances was for clarification of details or of the questions being asked of the child witnesses.

Table 3-27 Mode of Presentation of Cross-examination and Re-examination.

Time Span	Viva-voce	Screen	CCTV	Total
Before	8	4	0	12
After	4	19	5	28
Total	12*	23**	5	40

* Significant difference at .001 level.

** Significant difference at .005 level.

Table 3-28 lists the issues raised by defence counsel in cross examination both before and after the availability of video technology in courtrooms. "Past sexual conduct of the victim" was raised in four cases before and three cases after the availability of video technology in the courtroom (total =7; 17.5 per cent). The "reputation of the victim" was raised in nine cases (22.5 per cent).

Significantly more of the victim witnesses had issues raised regarding "no threats or force" involved in the incident(s) (65 per cent) also. Issues regarding the nature of the contact" and "fabrication of the allegation" were also raised significantly more often with child victim witnesses after the availability of video technology. In addition it is interesting to note that the most frequent other issues raised with all victims were "circumstances of disclosure" (82.5 per cent), "reasons for disclosure" (90 per cent) and the "nature of the acts" (82.5 per cent). These issues were raised with over 80 per cent of the child victim witnesses. Issues relating to the use of video evidence were also raised for the majority of victims who opted to use this innovation (N=19). The figures given below (see Table 3-28) are based on the total number of victims able to use the video technology (N=28), as in four cases where video evidence was not used the defence counsels still raised issues pertaining to inconsistencies with the tapes (see below).

Table 3-28 Issues Raised By Defence Counsel During Cross-Examination.

Issues Raised	Before	Percentage	After	Percentage	Total
Identity of Accused	1	8%	11	39%	40
Nature of contact	7	58%	26	93%	40*
Consent of acts	4	33%	6	21%	40
No threats/force	4	33%	22	79%	40**
Relationship of dependency	3	25%	13	46%	40
Use of drugs by victim	3	25%	4	14%	40
Provocation by victim	2	17%	10	36%	40
Use of drugs by accused	3	25%	2	7%	40
Past sexual conduct(victim)	4	33%	3	11%	40
Reputation of victim	4	33%	5	18%	40
Fabrication of allegation	7	58%	27	96%	40*
Inconsistency with previous testimony	3	25%	4	14%	40
Inconsistency with videotape	N/A		16	57%	28
Validity/value of videotape	N/A		11	39%	28
Circumstances of disclosure	8	67%	25	89%	40
Reasons for disclosure	10	83%	26	93%	40

* significant difference $p<.05$

** significant difference $p<.01$

3.4.5.5. Videotaped Evidence At Cross Examination.

Twenty-eight of the child complainants had the opportunity to use video technology, of whom 19 did so. Of the 19 child witnesses who employed videotaped evidence either for their full or partial testimony, all had their testimony discredited by defence counsels by the issues of "inconsistency with videotape" and/or "the validity/value of the videotape". In one case where nine victims testified using videotaped interviews defence counsel used maps and toys to explain the incident(s), and highlighted inconsistencies regarding the accuracy of the children in their videotapes to discredit the children's testimonies. In another case the trial was eventually abandoned and the accused discharged. This was due to witness inconsistencies. The defence counsel used

the videotaped testimony to discredit the child's evidence by confusing issues, dates and requiring her to repeat these.

Two witnesses in another trial were also challenged for inconsistencies. However, their testimonies were considered very consistent and clear according to the officer in charge of the case.

Yet another trial involving two witnesses were challenged on the dates, lying, the nature of the game that was played at night and for one, being too young to remember the incidents that occurred when she was six (now being ten at the time of the trial). The other victim had a diary used to discredit her account on videotape of the circumstances and dates. In this case the specialist interviewers who were involved with taking the interview were also questioned about their methods in another attempt to discredit the evidence.

In another trial involving four of five child witnesses, the defence counsel attempted to discredit the video evidence by way of the officer in charge and interviewer. In this case the techniques used when questioning the children were used to highlight problems with the interviews.

In only one case issues regarding video evidence were not used to discredit the child witness's testimony. As noted earlier for four child victim witnesses where video evidence was not used as part of their testimony, defence counsel raised issues regarding "inconsistencies with the videotape" as part of the cross examination. This was described by the officers in charge of these particular cases as a way defence counsel tried to expose inconsistencies possible with the witness's testimony, which was rarely successful. Of these four cases, three resulted in convictions and one in an acquittal.

3.4.5.6. Age and Cross-Examination.

Table 3-29 shows the distribution of defence counsel issues raised during cross examination by the age of the victims. The issue of "identity of the accused" was raised with only child victim witnesses under 12 years of age, however, both the issues relating to the "use of drugs/alcohol by the victim" and "use of drugs/alcohol by the accused" were raised with older child witnesses (13 to 17 years old). In one case involving a 16 year old victim the issue raised related to alcohol specifically as this had been a significant factor in the circumstances surrounding the assault.

Table 3-29 Issues Raised By Defence Counsel During Cross-Examination by Age of Witness.

Issues Raised	6	7	8	9	10	11	12	13	14	15	16	17	Total
Number of Witnesses	1	1	4	6	7	5	2	2	1	6	1	4	40
Identity of Accused	1	1	2	2	1	3	2						12
Nature of contact	1	1	4	5	7	3	1	1	1	4	1	4	33
Consent of acts		1	2	1	1				1	2	1	1	10
No threats/force	1	1	4	4	2	2	1	1		3	1	1	26
Rel/ship of dependency	1	1	2	2	2	2	2	1	1	1		1	16
Use of drugs by victim										2	1	4	7
Provocation by victim	1			1	2	2	1	2		1	1	1	12
Use of drugs by accused								1		1	1	2	5
Past sexual conduct(victim)							1	1		2	1	2	6
Reputation of victim					1		1			3		4	9
Fabrication of allegation	1	1	4	6	7	4	2	2	1	5		3	36
Inconsistency with previous testimony					1		1	1		2	1	1	7
Inconsistency with vid/tape	1	1	2	4	3	2	1			1		1	16
Validity/value of vid/tape	1	1	2	2	2	2		1					11
Circumstances of disclosure	1	1	4	6	6	4	2	2	1	3	1	2	33
Reasons for disclosure	1	1	4	5	7	3	2	2	1	6	1	3	36

As would be expected issues relating to "reputation of the victim" and "past sexual conduct of the victim" were mainly directed to the older child witnesses (ages 14 to 17), however, it was interesting to note that these issues were raised with one ten year old child and two 11 year old children suggesting that these types of issues can be raised with young child witnesses also.

As mentioned earlier the issue of "inconsistency with videotape" was raised with four child victim witnesses who did not use videotaped evidence and it was interesting to note that those four victims were 9, 12, 14 and 15 years old at the time of the trial indicating that slightly older children were questioned as to their non-use of the videotaped evidence than younger children.

3.4.5.7. Witnesses and Experts

Of those victims who used videotaped evidence at trial, 15 called a witness regarding the interview (78.9 per cent). For 11 child victim witnesses the specialist interviewer who prepared the tape was called upon (73.3 per cent), and for four child victim witnesses the officer in charge was questioned regarding the interview techniques (26.67 per cent). In one case defence counsel called the specialist interviewer as a witness regarding the videotaped interview. However, the video had not been used as part of the victim's testimony during evidence-in-chief and this tactic did not work in the defence's favour.

In four trials defence counsels raised issues and commented on the interview methods shown in the tapes. These were raised with the person who conducted the interview, not the children.

Eighteen child victim witnesses had expert witnesses testify regarding the significance of their testimony. In one trial a specialist interviewer was called upon to comment regarding the ten victims involved in the case. In the other eight cases a child psychiatrist, experienced in the field of child sexual abuse and the dynamics of child development, was called by the crown.

3.4.5.8. Outcomes of the Trials.

Table 3-30 Final Outcome of Trials.

Video technology Available	No	Yes	TOTAL
Preventative Detention		1	1
Imprisonment	7	8	15
Periodic Detention	1	1	2
Acquitted	3	3	6
Discharged		1	1
TOTAL	11	14	25

As Table 3-30 shows, the 25 accused offenders whose cases were determined by trials resulted in 18 being convicted and sentenced. There was no significant difference in the

number of convictions versus the number of acquittals before and after the availability of video technology (X^2=0.06, df=1, n=24, N.S.). Six were acquitted and one resulted in a discharge. Of the 18 offenders found guilty of sexual assault charges, 16 were sentenced to imprisonment, one of which was for preventative detention. Two offenders were given periodic detention sentences. Those sentenced to periodic detention were for 9 and 10 months.

The average prison sentence was for 47.1 months (*SD* =28.4; N=15). These ranged from four months to 78 months (6.6 years). They included 4, 18, 24, 30, 36, 42, 42, 42, 48, 48, 48, 60, 72, 78 and 120 months for each offender (See Table 3-31). There was no significant difference between the lengths of the incarceration sentences given before and after the availability of video technology (*t* (15) = 0.35, N.S.)

3.4.5.9. Appeals.

Of the 18 trials in which convictions resulted, seven of them requested appeals to the sentences given (two before, five after), and in all seven cases the conviction and sentences were upheld.

3.4.5.10. Sentences.

The imprisonment sentences for those who were convicted by trial averaged 42.7 months. For those 15 who were given imprisonment sentences, the average duration of the sentence was 47.1 months (*SD* =28.3) - nearly four years each. For the three offenders who received periodic detention sentences, the average duration was 9.5 months (9 months for one and 10 months for two others; *SD* =0.7). The average duration of imprisonment sentences for those who went to trial was 50.5 months before the availability of video technology (N=8), and 44.0 months after the availability of video technology at trials (N=9). The high standard deviation of 36.1 and 21.6 before and after the availability of video technology in the courtroom, respectively, indicates a broad range of incarceration sentences (see Table 3-31 for details). Before video technology was available, the range of imprisonment sentences was 18 to 120 months. After video technology the range of imprisonment sentences was 4 to 78 months. There was no significant difference in the average sentences given before and after the availability of video technology.

Table 3-31 Incarceration Time Resulting from Convictions By Trials.

Time	Number		Per cent of charges	
	Before	After	Convicted	
0 - 6 months		1	27.3%	n=1
7 - 12 months	1(PD)	1(PD)	66.7%	n=2
13 - 18 months	1		100%	n=1
19 - 24 months	1		50%	n=2
25 - 36 months	1	1	83.3%	n=1
37 - 48 months	2	4	100%	n=6
49 - 60 months		1	86.8%	n=1
over 60 months	2	1	91.9%	n=3
Preventative Detention		1	100%	n=1
Total	8	10	Total = 18	

(PD) Indicates the two periodic detention sentences.

CHAPTER FOUR.

Discussion.

CHAPTER FOUR.

Discussion

4.1. HYPOTHESES.

The aim of this study was to address two main hypotheses:

1) **Video evidence would result in more guilty pleas being returned.**

Hypothesis one was not supported by the results of this study. It was thought possible that more guilty pleas would have been entered as a result of videotaped interviews being available for the accused to view, and also for court purposes. By showing the tape to the accused, they may be more inclined to enter a guilty plea or admit to the offence(s) if the accusation by the child was true. Surprisingly, there was no significant difference in this, if anything, the results favoured more guilty pleas, proportionately, before the introduction of the Evidence (Videotaping of Child Complaints) Regulations 1990.

It appears that no difference occurred in the number of guilty pleas entered since the introduction of the regulations. These results are similar to those found by Spier et al (1992) in their study of the introduction of amendments to the Summary Proceedings Act 1957 and Evidence Act 1908 in 1986. It is possible that, with the video technology being available, defence lawyers may have wanted to test the limits of the acceptance of the new equipment. This would mean having to proceed with cases to trial, and have alleged offenders plead not guilty in order to have the opportunity to challenge the provisions. Often case law is made in this way, whereby laws are made through precedence in an earlier case. An example of this did occur where the young complainant's videotaped evidence was not admissible at trial because it had not been viewed at the depositions hearing. This set a precedent for all tapes to be viewed by the judge at depositions hearing in order for it to be considered for use at trial.

Challenges to the validity and admissibility of this new technology could also explain the non significant difference in guilty pleas made before and after the introduction of the regulations. Given the controversy that has surrounded admitting video technology into the courtroom, it would be expected that defence lawyers would try to challenge the use of the provisions. As it is defence counsels'

job to prove the defendant's innocence, any assistance for the victim may be viewed unfavourably. There may have been considerable pressure on alleged offenders by defence lawyers to plead not guilty in order for them to have the opportunity to challenge the admissibility and validity of videotapes. This can be partially seen in the results where some offenders pleaded not guilty in court but had admitted to the incident(s), either wholly or partially, during the initial investigations by the police.

Defence lawyers may have also wanted to test the grounds by which the affidavits for CCTV were made and challenge these, too, again requiring that the case proceed to pre-trial conference stage. It seems that making an application for the use of the special provisions is not only time-consuming for the counsel representing the child, but there is also potential for a child to be additionally traumatised and stressed by having to make the application and await the pending result. As Spencer & Flin (1990) point out, just trying to establish that the child will suffer emotional damage by testifying in court may be more traumatic than the court appearance itself. Although the child is not present at the pre-trial hearing, where the mode of evidence is determined for trial, any doubt surrounding whether the provisions will be used at trial may cause severe emotional distress for the child. Therefore, it could only be helpful for both the child and lawyer if the affidavits requesting the use of CCTV and videotapes be abolished. The availability, accessibility and use of these tools should be automatic and not requested.

Another reason for no difference resulting could be due to the availability of legal aid to alleged offenders who need it would also have assisted the pursuit of cases. As noted in the results, the majority of alleged offenders who went to trial were unemployed or retired, thus having not only the time to defend the allegations, but also qualifying for legal aid.

It is important to mention here that, although an offender may admit the offence(s) occurred either partially or wholly when they are interviewed by the police, when charged with the various offence(s) they may enter a plea of not guilty. This can occur on the advice of their counsel or because they do not want to be convicted of the offence(s) without a fair hearing. However, even if the accused enters a not guilty plea, it can be possible to convict them on their own admission, if it is clear and meets the requirements of the legal system.

The potential outcome involved when proceeding with a case to trial has the effect of long time delays during which many victims may withdraw their complaint. It is difficult to say whether the motivation for not entering a guilty plea is from an

increase in denial of the offences, cultivated from the public awareness and negative attitudes toward child sexual offences, or if this results from a recommendation to the offender by defence counsel. By showing the tape to the accused, they may be more inclined to enter a guilty plea or admit to the offence(s) if the accusation by the child was true, however, documentation of who had seen the tapes was not looked at in this study. This type of information may have shown that very few alleged offenders actually view the tapes, hence, possibly why the videotapes did not have a greater impact on the alleged offenders plea rates.

It should be noted here, however, that in the month following the one year period after the regulations' introduction (13 months), only one case went to trial and the remaining four of the complaints where charges were laid resulted in guilty pleas. This result may just indicate a flaw with the particular designation of the dates - a restriction of this study.

The sentences given to those offenders who submitted guilty pleas may reflect a trend of lesser sentences being given for guilty pleas before the implementation of the regulations. However, it does not appear to be the case after the regulations were introduced, possibly because with the regulations being in place, a more serious view was taken of the damaging effects of sexual abuse on the victims.

2) Having video evidence available would mean less time taken to:
a) get to trial

The cases that had charges laid after the evidence regulations were introduced reach trial nearly two months later than the cases that had charges laid before the regulations were introduced. Although there was a small difference in the duration to trial proceedings of cases, this was not large enough to be significant, suggesting that, regardless of whether Evidence (Videotaping of Child Complaints) Regulations 1990 were available or not, the cases tend to take approximately seven to nine months to reach the stage of trial. This is supported by the data collected from all the samples where the average duration was 8.44 months (see section 3.3.1.12). This is not surprising when it is realised that, in this time, the investigation must be done, including the interviewing of the complainant, their family and the alleged offender; charges must be laid specifying dates and specifics of the alleged incident(s); the crown prosecutor and the defence counsel must be given time to prepare their respective cases, as well as the complainant being prepared for the various stages of the case. During this time, arrangements must be made for up to three initial hearings, up to two pre-depositions conferences,

depositions hearing(s), pre-trial conference(s) and a date set for the trial. During any one of these stages, delays are possible.

b) resolve the case.

There was no significant difference in the duration to reach the final decision date (see section 3.3.1.12). As there was no difference seen here, it can be assumed that the introduction of the Evidence (Videotaping of Child Complaints) Regulations 1990 did not reduce the duration of time taken to resolve a case. It again suggests that the detection, investigation and prosecution of child sexual abuse cases requires a set amount of time to resolve, and that this was not influenced by the introduction of the special provisions.

Another reason for very little difference may have been helped by two factors influencing the duration of cases that counter-balance each other out. The introduction of the regulations may have reduced the time spent on the prosecution process of the cases, and this is supported by the fact that offenders pleaded guilty significantly sooner once the video technology was available. However, implementing the standards set out by the regulations, and ensuring good quality video interviews (usable in court) were produced, may have slowed the investigation stage of the cases. The significantly shorter duration to guilty pleas after the introduction of the regulations shows that this may have happened, however, it is difficult to know whether this was a direct result of the regulations being implemented.

The similarity of the durations to trial and to final decision date suggests that anyone pursuing a case of child sexual abuse through prosecution can anticipate an eight to nine months duration of proceedings before the case is resolved - a vital factor which would surely deter many from pursuing prosecution.

4.2. RESULTS

4.2.1. Part One.

A What changes have occurred since Taylor's 1986 Study to the structure of the Child Abuse Unit?

The changes to procedure and practice within the child sexual abuse field in Christchurch since Nicola Taylor studied the situation in 1986 reflects the concerns

laid out by the National Advisory Committee on the Prevention of Child Abuse (1986). The historical landmarks that saw the development of these changes have placed child sexual abuse investigations in a league of their own, acknowledging the fact that such cases need to be dealt with in a specialised manner with specialist investigators. The service provided by DSAC doctors shows major progress for practice when dealing with child sexual abuse cases, and is essential to successful investigation and presentation of evidence in court.

The dedication of the Unit staff members must be recognised here, for it is their knowledge, understanding and skill that plays such a large part in the detection, investigation and prosecution, as well as the resolution, of all cases. Whether it be for prosecution purposes or not, work on the Child Abuse Unit may not be considered 'typical' police work, however, the handling of such cases possibly requires a special type of officer with specialist skills.

The results of the present system employed by the Child Abuse Unit show that many of the suggestions, innovations and recommendations made in the literature have been incorporated as much as possible into the police investigation and prosecution system. Interagency co-operation is certainly being worked on, requiring a lot of time and commitment on the part of all professionals involved. Pre-trial orientation is an integral part of the prosecution procedures, and specialist skills and knowledge in dealing with child abuse victims is continually being re-addressed with workshops, courses and seminars. However, many suggestions posited in the literature concern procedures occurring within the court setting. Hence, further research is required to look at the degree to which the recommendations have been incorporated into the Criminal Justice System in the courtroom.

The changes that have occurred are encouraging to anyone who understands the great differences and disadvantages children face in an adult-oriented world, and they reflect the efforts that have been made to include children in the Criminal Justice System. As Flin, Davies and Stevenson (1987) have noted, the limitations of children should not be used as an excuse to lessen their involvement in the Criminal Justice System - they are valuable witnesses. Rather, the onus should be on lawyers and judges to utilise methods which circumvent these limitations and elicit the most complete and accurate information possible from the child. As Berliner and Barbieri (1984) claimed, children, even very young ones, can give valuable testimony if they are properly prepared and interviewed.

4.2.2. Part Two.

A What happens to complaints of child sexual abuse?

B What changes have taken place since the introduction of the Evidence (Videotaping of Child Complaints) Regulations 1990?

C What are the outcomes of the cases?

In the years prior and following the Evidence (Videotaping of Child Complaints) Regulations 1990 being introduced, a 30 per cent increase in the number of complaints laid over this time was evident, which is consistent with the general literature on child sexual abuse (see Pow, 1989). As noted in part one and part two of the results, many different aspects of a case are taken into consideration to reach a final decision. There is no one set method of dealing with investigations of child sexual abuse as each case has its own set of variables that will determine the outcome. What actually happens to the cases is discussed here with reference to the impact of the Evidence (Videotaping of Child Complaints) Regulations 1990.

The results for transfers to another location, although interesting, probably was not influenced by the introduction of the evidence regulations. However, in cases where the offender and child or children are living in different locations, the trials are generally held in the child's location on application by the police. This is generally accepted by most judges now although, in the past, this was not so readily accepted, and could also be one of the reasons for this result.

It is also possible that the significant difference noted here could be put down to an administrative one. The staff in charge of investigations before the regulations may very well have recorded every complaint before sending it to the correct station. With the change of staff, and the implementation of a computerised system, only complaints relating to the Christchurch area were recorded. Generally, a file number for a complaint remains the same, therefore, a file generated in Christchurch may be resolved elsewhere but under the same file number.

A complaint can be withdrawn at any stage of the proceedings by the complainant (child victim) or their family. The significant difference between complaints withdrawn before and after the introduction of the regulations may reflect the challenges to the validity of the videotapes. Videotapes have been challenged in every possible way by defence counsels regarding their admissibility and adherence to the regulations. This has meant that only the best quality tapes are ever utilised in court. Aspects such as clarity of the disclosure, inclusion of truth, lies and promise in the interview, no leading questions included and legalities of the case

being met are all part of the considerations made when deciding whether to use the tapes. Other more subjective aspects are also considered, including the child's demeanour, stance, behaviour and potential ability to cope with the court process.

Another plausible reason for this result is that parents do not want their children to go through the stressful process the Justice System requires and, therefore, withdraw the complaint before it creates any more distress for the child. Again, greater public awareness of child sexual abuse incidents and procedures would likely have contributed to this type of decision. This may range from the parents not wanting to believe abuse has occurred to wanting to forget all about it. Often parents feel that it is best not to talk about it in order to get over it (Saphira, 1987). Many people feel unwilling to talk any further about the matter once the police are involved. This is especially true if the offender is a relative or partner (Saphira, 1987).

The police keep in close liaison with the victim and their family and/or guardians. Specific assessment oriented toward the individual complainant, their family and the circumstances surrounding the case are continually evaluated by the Child Abuse Unit officers to provide the best possible outcome for the child victim. Often the best option for the victim may not involve prosecution but rather work on their own personal recovery and healing through counselling and therapy. Increased training requirements that are now part of the staff specifications at the unit may have influences the increase in complaints being withdrawn due to a better understanding of the dynamics of child sexual abuse, resulting in child victims having more say in determining the outcome of the case. As mentioned earlier, it is the victim and/or their family who have the final say in what happens. The initial response of the police officer in charge of the case would no doubt be very important in giving people confidence to go ahead with court proceedings. The impact of Accident Compensation Corporation paid counselling and treatment may also have influenced the number of cases not prosecuted.

Along with the potential stress that is inevitable in a sexual abuse case, the possibility of media coverage of the case may also deter people from continuing a complaint. A recent case in Christchurch which made world-wide news coverage became a much talked about issue within the community. The awareness of the public was certainly increased but also triggered much controversy as to who was to be believed and who was not. This is a good example of the type of discussion many complainants would wish to avoid.

It is also possible that those accused were not pleading guilty or admitting to the offences claimed by the complainants, resulting in an increase of complaints being withdrawn after the introduction of video technology. Most offenders deny the abuse and insist that the child is making it up (Saphira, 1987). The increased awareness of the public about child sexual abuse issues may have caused offenders to be much more wary about admitting the crimes, thus increasing their degree of denial of such incidents occurring and wanting to have their day in court to prove it. This, in turn, means a long slow process of hearings and meetings involved in the prosecution process. The time delay would surely make the prospect of counselling and treatment far more appealing.

For those alleged offenders who committed suicide before being prosecuted, one can only speculate on the reasons for then choosing to end their lives. It is possible that the reality of what has occurred, and the seriousness of it, makes the prospect of living too unbearable for these individuals. Without having been convicted of the offences, it is difficult to say whether it is just the accusation of such crimes that is the breaking point for these people, or it was a reflection of this guilt.

In one case the accused, the father of the complainant, committed suicide before he could be charged. Another hung himself the day before he went to trial for offences against his children and grandchildren. In the third case, a family friend committed suicide only six days after the victim's complaint. There does not appear to be any consistent pattern from date of complaint to date of suicide, nor the stage of proceedings at which the suicide occurs. One can only assume that the rarity of the acts indicates a personal threshold the individual reaches and cannot see any other way of dealing with it. Both numbers of suicides make up such a small proportion of the total complaints that it would be misguided to believe that the introduction of the regulations had any impact on this increase.

The cases taken to the point of a trial are those where the crown believes a strong case against the accused is pursuable but no guilty plea is entered by the defendant. This result contradicts the earlier suggestion made that perhaps guilty pleas made before the regulations returned lesser sentences than after. Given that a trial is very traumatic for a child this result goes against the assumption that a trial would induce a more serious penalty if an offender is found guilty.

These results also indicate that, after the regulations being specified, the justice system may have viewed child sexual offences as less serious, or that the punishments are more befitting the crime. The controversy surrounding child

allegations of sexual abuse, and the truth behind the allegations, may be one reason for the sentences of convicted offenders being periodic detention and supervision rather than prison sentences. Then again, the prison population is also increasing at a steady rate and overcrowding is a problem. The fact that the sexual offenders are generally confined in a separate section of the prison means that opting for an alternative means of punishment to avoid a shortage of staff may be viable. However, it does not appear to be a clear trend of the punishment being more worthy of the crimes. In one case where periodic detention and supervision were issued, the charge was for 'unlawful sexual intercourse with a girl under 16 years'. When ranking sexual offences for degree of seriousness, this charge is ranked amongst the highest, hence, the sentence for this crime does not appear to fit the crime on a scale of seriousness.

In the case of the dismissal where the complaint was initiated but, on the day of the trial, the complainant was too frightened to give evidence, there may be a suggestion that preparation of the victim for the trial was not adequate; however, even with the best preparation, it is fair to say that all witnesses react differently to stress and some may just find the whole ordeal too overwhelming to proceed with. If threats have been used during the abuse, it is also likely that the child complainant will be more likely to withdraw at this point because of his/her fear of the defendant and of seeing that person again.

The 'insufficient to prosecute' results, although non-significant, warrant discussion because they depict nearly a quarter of all child sexual abuse cases. The non-significant difference of these results may be accounted for by the fact that standards of evidence may have become higher after the Act was passed. That is, after the regulations were introduced, there were more cases that did not meet the standards required by law for use in the justice system. The crown solicitors who represent the complainant and the police generally only prosecute when there is a very high chance of success in order to minimise the trauma experienced by the victim through the prosecution process. Although the amendments to the Evidence Act 1908 essentially aimed to reduce the stress a child victim would experience, it may have resulted in higher standards of evidence being called for to win cases. However, further investigation of the courtroom transcripts would be required to establish this. As Newton's first law states "For every action there is an equal and opposite reaction." Hence, given that a better-than-equal chance of success is required to prosecute, the crown generally opts to pursue only the strongest cases.

These results suggest a proportional increase similar to that of child sexual abuse complaints. In the last decade, the number of incidents reported of child sexual abuse has increased consistently (Saphira, 1986) More people are aware that child sexual abuse occurs and efforts have been made to assist those in the care of children to identify the indicators of child sexual abuse by way of workshops and courses (for example, 'Keeping Ourselves Safe' programme run by the police; 'Personal Safety Skills for Pre-schoolers' run by community groups, and the safety components of health programmes run in children's health camps). With this awareness comes a concern for the victims and the long term detrimental effects of child sexual abuse. Hence, the need for victims to seek some sort of help and treatment for abuse has become more prevalent. For many of the victims, where there is insufficient evidence available to prosecute an offender, some sort of counselling or therapy is generally sought to ensure that at least the victim is assisted in the best possible way.

The similarity of the percentages of cases insufficient to prosecute before and after regulations suggests that, in any cohort of child sexual abuse complaints, approximately one quarter of the complaints will not be substantiated with a clear disclosure from the victim or any corroborating evidence. Thus, very often, the complaint is noted but no further investigation is entered into because of the lack of details and evidence.

For many of these cases, this is the terminal decision. They may be pursued at a later date or be relevant in later years for or against further allegations of abuse for both parties (victim and accused) but, more often than not, these are filed or closed with an outcome that ultimately satisfies the victim and their family, given that no further proceedings can take place. The empowering process the police use puts the final decision in the hands of the victim and/or their family, giving them a sense of control over the matter.

4.2.3. Part Three.

A What types of charges were laid for child sexual abuse cases? Frequency?

Indecent assault charges are most likely to be laid (see Table 3.17). It is difficult to say whether this is because indecent assault offences are the most commonly occurring, or if these charges are easier to prove and more likely to result in a conviction. If the former is true, it would suggest that the majority of sexual abuse cases involve moderately serious types of abuse; that is, according to the literature on the seriousness of abuse, intercourse-type offences are considered to affect on the victim more than exposure-type offences and, therefore, be more serious. However,

indecent assault-type offences are in between these two types of offences in terms of seriousness.
If the latter is true, it would seem that indecent assault and even indecent acts would be charged in preference to a sexual violation and intercourse charge, firstly, because there may be a likelihood that an offender will plead guilty to lesser charges than more serious charges, or secondly, because, if the case goes to trial, a jury may be more likely to convict the accused if the charges are not of a serious nature. This is backed up by literature on jurors' attitudes and perceptions of child victim's credibility.

B Are charges laid for minor offences?

As can be seen, very few charges were laid for minor offences such as exposure-type offences.
On a scale of seriousness, indecent act charges are considered the next least serious type of offence, and there were similar numbers of indecent act charges laid as intercourse and sexual violation charges. Many indecent act charges were laid as intercourse charges and sexual violation charges. This could be because charges were only laid for serious offences and offences that are more detectable, that is, corroborating evidence is available. Since the minority of charges laid were for less serious offences in terms of their effects on the victim (indecent act and exposure), this suggests that exposure charges are either not laid or not always prosecuted. A number of reasons could explain this. Firstly, it could be that, due to the nature of exposure offences, parents and/or the police may not pursue prosecution of the offences. Secondly, it could also be that the victims themselves are not aware, at the time of such offences occurring, that this is, in fact, a crime against them. Thirdly, it may be that, given that the majority of alleged offenders are known to the victim and/or their family, they may not wish to pursue prosecution of the perpetrator. This is not to say that any offence against a child victim is not serious; in fact, it possibly is perceived as extremely serious to the victim involved. Many variables no doubt interplay with the victim's perception of the crime, such as the age of the child when the offending begins. For very young children, this may be seen as just a way of life and not recognise it as violation in the legal sense; the child's family background and personality may also interact with their perception of the violation.

C Were charges laid involving male victims?

Charges were laid involving male victims. Proportionately fewer males had charges laid than females. This is consistent with the literature reviewed by

Watkins and Bentovim (1992). The reasons for this lower proportion could be due to the nature of the offending with males, given that more often sodomy is committed. This can bring about fears of homosexuality which is generally denigrated in European culture (Watkins & Bentovim, 1992).

If the report rates are an reflection of actual rates they may be attributable to a differential emotional response whereby boys react differently to sexual abuse and, therefore, less likely to report the abuse. This refers to whether boys are more likely to 'act out' (externalise) or 'act in' (internalise) than girls. There is simply no real evidence of whether children are more or less likely to talk about traumatic abusive events, depending on how they have reacted and whether there are gender differences. However, there is no support for the hypothesis that externalising responses occur more commonly in boys (Watkins & Bentovim, 1992).

The reporting rates (that is, the number of complaints made to the Child Abuse Unit) of males to females were not analysed and, therefore, cannot be compared to the rates of those who had charges laid, the reason being that information regarding these details was not always recorded.

D Were charges laid involving female offenders?

No charges were laid against females. However, there were three cases investigated against females (Section 3.2.2.). As Watkins and Bentovim (1992) point out, abuse by females, especially mothers, has been a difficult issue for the community to contemplate. Abuse by females is relatively under-reported, in part due to fear of disbelief of the abuse. Abuse by women has been reported to occur jointly, in polyincestuous activities, or alone (Watkins & Bentovim, 1992). Research on abuse by females reports a higher number of boys offended against than girls (Watkins & Bentovim, 1992), which could be linked with the low report rates of offences against male victims.

E Were charges laid in cases reported to police more than one year after the incident(s) occurred?

F Did these charges result in a conviction?

There were 27 victims who reported abuse one year after the incident(s). The results were favourable, in that the majority of these cases resulted in convictions (Section 3.2.2.). The delay in reporting abuse is a common characteristic of child sexual abuse, often due to the child being forced to keep it a secret (Saphira, 1985). It is not

uncommon for children to be threatened that, if they tell, someone they love will be harmed. Children's logic is dominated by one-to-one relationships, and they believe that they must be bad for something bad to happen to them. Sometimes they are told they are being punished for being bad.

Caregivers of sexually abused children may add to this secrecy by insisting that the child like and be kind to the perpetrator, especially if they are a relative, caregiver or teacher.

Children may feel it is their fault, and perpetrators may build on this by loading responsibility onto the child in cautions to keep it a secret -

> "He told me if I told anyone he would go to jail and I would be sent away".
> "He said he would kill me if I told anyone".
>
> (Saphira, 1985, page 9)

Socialisation also makes it difficult to reveal the abuse, as children are aware by school age that it is not regarded as nice to talk about sexual organs and other "private parts". This can make it very difficult to talk about, and children may say things like "I don't like Mr. X anymore" or "I don't like keeping secrets". The clues are vague and make it difficult for adults to recognise.

It is, however, encouraging to see that, although cases of abuse may have occurred over a year ago, they can still be prosecuted at a relatively high rate of success.

G What was the relationship between the offender and victim, and the outcome of the case?

The relationship between offender and victim and the outcome of the case tended to suggest an even representation of relatives, other known persons and strangers to the various outcomes of cases (Table 3-7). Proportionately, the representation was equal, however, there did appear to be more relatives given lighter sentences (periodic detention) than other known persons.

The most striking result was the acquittals, of which five out of the six alleged offenders acquitted were relatives and, of these five, three were being charged with intercourse or sexual violation charges, which suggests that jurors may be unwilling to convict on charges of intercourse/rape, and this result is more likely if the defendant is a relative. This may be due to a denial on the part of the community that intra-familial sexual abuse does occur. It was also interesting that, in one of the

cases, although the jury believed the child complainant, they just could not return a guilty verdict. This highlights the point of jurors' denial of such incidents.

Acquittals may also have been returned in these cases due to misperceptions on the part of the jury. This issue has been noted in the literature by Bottoms (1993), Goodman et al (1989), Isquith et al (1993), Lieppe et al (1993), Lieppe & Romanczyk (1989) and Melton & Thompson (1987). It is possible that the victims, testifying against the alleged perpetrators in these cases, may not have been as confident in their testimony as those in other cases. There seems to be a number of variables upon which jurors base their assessments of credibility (Lieppe et al 1993; Bottoms, 1993), and these victims may not have portrayed themselves in a credible way in order to convince the jury of the accused's guilt. This would more than likely have been influenced by the alleged offender's relationship with the child complainant. This is supported by the literature on the effects of sexual abuse (Andrews & Merry, 1988; Browne & Finkelhor, 1986; Finkelhor, 1979; Saphira, 1985).

H Did the type of sentence relate to the characteristics of the offence, victim and/or the offender?

Unfortunately, due to the nature of the data and the unavailability of resources, it was not possible to answer this question with any clarity.

I Are Victim Impact Statements used for child victims?

Victim impact statements are only prepared for sentencing, however, they may be more useful during a trial. The problem arises, however, with defence lawyers challenging the content of the statements as to the truthfulness of them. This is not to say that this does not happen when they are presented at sentencing, only that this is more likely to happen at trial. They are not meant to be of contestable nature and are merely provided as the victim's perspective of the effect of the abuse. It is subjective and purely opinion - not fact.

One particular concern that does appear with victim impact statements is the confidentiality of them. Similarly with videotape evidence, where concern has been voiced in the literature over the confidentiality, ownership and storage of the documents, victim impact statements should be required to have the same protection as the videotapes concerning the divulging of information from them and the security of them. Defendants are permitted to view the victim impact statements, however, there are no restrictions regarding who else sees them while

they are in the offender's possession. This indicates the need for stringent standards to be set ensuring that the use of such documents is restricted and contained, eliminating the potential for their misuse.

4.2.4. Part Four.

A Was competency assessed by a judge for all child witnesses?

B Did this vary after the availability of video technology?

C What questions/issues are raised in relation to competency?

Interestingly, there were marked differences in the number of child complainants questioned regarding competency before and after the availability of video technology. This may have been directly influenced by the introduction of video technology, in that judges may have felt it necessary to confirm to the court the child witnesses' competency to testify, and to ensure that this was not the subject of appeal at a later date.

The three main issues raised during competency testing were related to the oath and the truth which, in itself, raises an interesting debate. To date, there has been no relationship found regarding ability to tell the truth and age - that is, being a minor. It then evokes the question as to why judges raise these issues. Is it to emphasise to the court, and more especially the jury, that the child is understanding of the truth; and why this is not done for adults? In a time when beliefs of the powers-that-be to condemn people to hell are not as widely held, the purpose of the oath also raises questions as to its ability to commit people to telling the truth. As the report of the Advisory Committee on The Investigation, Detection and Prosecution of Offences Against Children (1988) stated - "the competency test serves no useful function" (page 6). It can be agreed that it should be abandoned and left to the jury to determine how much weight should be placed on the child's testimony.

This in itself, however, produces problems by the mere fact that so many factors influence jurors' decisions, and equally as many variables affect the credibility and perceived reliability of a witness. More consideration to expert testimony on the dynamics of child sexual abuse and testifying in court may be more valuable than competency testing.

The results also show that many of the younger children were questioned regarding competency (Table 3-25; Ages 7-12 years). Literature has suggested that older children are more likely to make up allegations of child sexual abuse because they

have knowledge of sexual matters. It appears unfair, therefore, to subject the younger children more often to competency testing than older children, where it appears their testimony is left to be assessed by the trier of fact.

The ages of the children who were questioned regarding competency may appear to be unfairly biased due to the specific cases looked at in this study. For example, there was one case in which ten victims were involved with ages from seven to twelve years, and in this case all ten were questioned regarding competency. The fact that children of this age group are depicted as being more often questioned regarding competency may differ depending on the case, the judge and the jury. Hence, future research would be useful to look at the court process more fully - especially factors determining the outcome of real life trials of child sexual abuse.

D Were videotapes being used in evidence?

After the availability of video technology, videotapes were being used for evidence-in-chief, either wholly or partially. Of those trials that used videotapes, half were used solely for testimony. Where videotapes were partially used as part of evidence-in-chief, a screen or CCTV was employed, but not viva-voce testimony. There was use of other provisions along with the videotaped evidence.

Clearly videotapes were used in evidence once the equipment was available, as 24 of the 28 victims who had the availability of video technology used some form of special provision. This indicates that, although attempts may have been made by defence counsels to restrict the use of tapes and special provisions, the implementation of them was still considerable. This is extremely encouraging, as it shows that judges had a willingness to let the provisions be used.

E Was CCTV being employed in trials?

Again, yes, CCTV was used solely and in conjunction with videotaped evidence. One of the great advantages CCTV may have at trial is that, if a videotaped interview is used as partial evidence, any information that has been gathered in the interim between taping and the trial can be included at trial without the threatening presence of the defendant. It is then that a closed circuit television system can benefit a victim during evidence in chief, as all information may be entered into the case, not just that which is held on videotape.

F Have screens been used in court?

Cross-examinations proved to have two sets of significant results with the clear difference being that viva-voce was used predominantly before the availability of video technology, and screens were used after the availability of video technology. This suggests that, although CCTV was available, it was not opted for. This could have been due to the lack of clear knowledge as to the impact of CCTV testimony on a jury. The general opinion held by the professionals working for the child may have been that viva-voce testimony has a greater impact on the jury so, where possible, it would be preferentially used. By using a screen to reduce potential stress for the child witness, this could be achieved.

This may also account for why so many victims did not make use of the screens before video technology was available. Only one trial studied was run before the introduction of the special provisions, though clearly more child witnesses did not implement the screen before the regulations were introduced. This may have been at a time of some scepticism as to the actual benefits of screens, with counsels preferring to stay with the tried and true methods of presentation in court. Again, when CCTV was made available, a small proportion of victims used this mode of evidence presentation, which may again indicate a similar period of scepticism in which CCTV was not readily implemented. During the year after the availability of CCTV, it may have been used only in cases where the child victim would have been severely distressed by testifying in the presence of the defendant, as in one case where the child testified against her father. In this case, the 11 year old child had already been severely traumatised by having to move out of her home because her mother did not believe the incidents had occurred. Hence, the use of CCTV may have been used for those victims who had already been extremely traumatised by the investigative process and/or the actual experience, and who needed to reduce their stress levels for the prosecution process as much as possible.

G Have supporting adults accompanied children during the trials?

The majority of complainants were accompanied by a support person during their trial. No doubt this would have very positive effects for the child testifying, as not only the setting of the courtroom or CCTV room can be forbidding and overwhelming but, even more so, having to be questioned and relate the incidents of child sexual abuse can be extremely embarrassing and difficult. It was encouraging to note that the officer in charge of the case was also present during the child's testimony, giving them yet another support person in the room. This has to

have positive effects on the child witness's perception of their trial experience, as well as on the emotional impact of having to testify in court. It would reduce the overwhelming nature of the court process and be encouraging for the child, in the sense that they would not feel as stressful, victimised or alone. As Moston (1991, 1992) has noted, just having a support person present would maintain the traditional support networks at a time of stress which children would otherwise have around them.

H What sorts of issues were raised during cross-examination? Frequency?
I Was the prior sexual activity of the complainant raised at trial?

The issues raised most frequently by defence counsels were centred on fabrication of the allegation, nature of the contact, as well as disclosure. These three areas try to discredit the child witness by implying they made up the allegations, and the possible reasons for why this would be done. All these issues appear to be raised with all complainants regardless of their age, however, issues such as the use of drugs and alcohol by either the defendant or victim were raised with older children. This is probably because older children would be more likely to drink alcohol than younger children. Cross-examination is difficult for any person to deal with, and the intimidating expressions that may be used by defence lawyers can make this all the more frightening. Preparation by professionals working with the child seems most relevant for this stage of the process, as stress levels will be the highest. There may be a place for pre-courtroom discussion with the complainants of the possibility of these types of issues being raised with defence counsel at trial. It is important to note that coaching should be avoided to obtain a natural response to questions, however, some prior discussion with all age groups of children about the possible issues defence counsel may raise would not be lost at trial.

Equally, if not more necessary than courtroom preparation, is the need for prohibition of defence lawyers to ask leading questions. Standards have been set to ensure investigators and prosecuting lawyers do not ask leading questions, therefore, this should apply to defence lawyers also. After all, the purpose of a trial is to establish the truth, not to lead the course of the trial in tangential directions and confuse it by focusing the case on irrelevant issues.

Issues of the complainant's past sexual conduct and reputation were also raised with older children, and clearly indicate that older children are more likely to be questioned about this probably due to their age (see section 3.4.5.6.). This result was extremely interesting as the Evidence Act 1908 s23 A 2 (a) and (b) protect witnesses

from being questioned about these matters in cases of a sexual nature at trial. This suggests that the officers in charge of the cases may have confused the pre-trial discussions with the trial details.

J Were expert witnesses used?

Expert witnesses were not called upon in all cases. As mentioned earlier, the use of expert witnesses could be advanced, particularly in the area of children's competency to testify. Specialist interviewers were most often called to testify about the tape. It would be extremely beneficial to the trier of fact to have a better knowledge of developmental issues and the dynamics of child sexual abuse, and this could be provided in such cases by the specialist interviewers. If expert witnesses are available to provide insight into the general knowledge surrounding the case then surely this could only assist the jury in their assessment and in reaching a decision about whether the incident(s) alleged did, in fact, occur. As the literature points out, the issues of credibility may not lie with the child itself, but with the trier of fact's ability to assess the truth.

4.3. RESTRICTIONS OF THE STUDY.

Some of the weaknesses of this study included the time limitations restricting the amount of data that was collected. It may have been useful to extend the time periods looked at to two years either side of the introduction of the Evidence (Videotaping of Child Complaints) Regulations 1990 and the availability of the video technology. Although some cases may still have been active, it would have given a broader picture of the impact of the regulations, both initially and later.

Another possible restriction of this study was the use of questions about trial procedures from the officers in charge of the cases, rather than using court records of the trials. Memory is often distorted and weakens with time and memory for some of the victims may have been weaker than for others given that some of the cases were three or four years old at the time of questioning. The reliability of each officer's memory may differ depending on the individual, and their interest in the case they were dealing with. However, it should be noted that in cases where the victim(s) had to appear in court the officers in charge of the cases generally appeared to have very clear recollections of the victims, the case and procedures that took place.

Although all information gathered was checked from computerised system to manual system this does not omit the possibility of data errors in both being present. For example, much of the data gathered regarding the ages of the victims at various stages of the cases were not entered correctly on police records and had to be manually calculated from the details given by the researcher.

4.4. FUTURE DIRECTIONS.

Future research clearly needs to look at a number of areas for the impact of video technology to be fully understood. these include:

1. Research regarding the victim's perspective of the procedures and process they have to endure. What the impact was of Evidence (Videotaping of Child Complaints) Regulations 1990 for the victims. This would be difficult to set up as it would require data to be collected from cases processed a long time ago, and that data would be susceptible to errors in memory. It may, however, be possible to study this in another country where similar provisions are to be set up.

2. Observation of actual courtroom cases. This needs to include research regarding the child's behaviour; the accused's behaviour; the defence lawyer's behaviour and style of questioning; the anxiety levels of the child as well as the details of what issues are raised in the trials.

3. Investigation into the factors that influence individual juror's decisions in real trials. As noted in the introduction, mock juror assessments have been done however, the factors influencing mock decisions may be quite different to those in a real case where the decision will affect someone's life.

4. There may be a need to implement a court preparation programme similar to that of the Texas study. Dible & Teske (1993) report if any change in the number of guilty pleas is to be seen. It would be paramount to conduct follow-up research of any programme set up in order to study the impact and effect it would have for the victims and the outcomes of the cases. Without any follow-up the long term value of any programme could not be assessed.

5. Further follow-up to this study would be useful to see of the changes that occurred between the years before and after the introduction of the Evidence (Videotaping of Child Complaints) Regulations 1990 are still continuing today,

or if the circumstances regarding case outcomes have changed again now that the honeymoon period of video technology has passed. It would be helpful to assess whether the decrease in guilty pleas was in fact a result of the regulations, or if it was merely an artefact of the study's time sampling.

6. It would be interesting to see if the use of CCTV has increased since its initial availability. It is more than likely that its use would have increased quite dramatically as it became more widespread and commonplace.

7. Further exploration into the effects of having another person present in court, what the relationship of that person is to the child, and why that person was chosen, would provide a clearer picture of the benefits of child witness support.

REFERENCES.

REFERENCES.

Aldridge, J. (1992). The Further Training of Professionals Dealing with Child Witnesses. In H. Dent & R. Flin (Eds.), *Children as Witnesses.* (pp. 231-244) Chichester, England: J. Wiley & Sons.

Andrews, L., & Merry, S. (1988). Child Abuse and Mental Health Project: A New Zealand Study. In M. Abbott & D. Braun (Eds.), *Child Abuse Prevention in New Zealand.* (pp. 53-60) Auckland: Mental Health Foundation of New Zealand.

Armstrong, J. J. (1976). The criminal and videotape trial: Serious constitutional questions. *Oregon Law Review, 55,* 567-585.

Badgley, R. (1984). *Sexual Offences Against Children.* Canada. Department of the Committee on Sexual Offences Against Children and Youths.

Bahrick, H. P., Bahrick, P. O., & Wittlinger, R. P. (1975). Fifty years of Memory for Names and Faces: A Cross-sectional Approach. *Journal of Experimental Psychology: General, 104,* 54-75.

Batterman-Faunce, J. M., & Goodman, G. S. (1993). Effects of context on the accuracy and suggestibility of child witnesses. In G. Goodman & B. Bottoms (Eds.), *Child Victims, Child Witnesses - Understanding and Improving Testimony.* New York: Guildford Press.

Benedek, E. P., & Schetky, D. H. (1986). The child as witness. *Hospital & Community Psychiatry ,37,* 1225-1229.

Benedek, E. P., & Schetky, D. H. (1987). Problems in validating allegations of sexual abuse. *Journal of American Academy of Child and Adolescent Psychiatry, 26,* 912-921.

Berliner, L. (1992). Should Investigative Interviews of Children be Videotaped? *Journal of Interpersonal Violence, 7,* 277-8.

Berliner, L., & Barbieri, M. K. (1984). The testimony of the child victim of sexual assault. *Journal of Social Issues, 40,* 125-137.

Berliner, L., & Conte, J. R. (1990). The Process of Victimisation: The Victim's Perspective. *Child Abuse & Neglect, 14,* 29-40.

Bernstein, B. E. (1982). Out of the Mouths of Babes: When Children Take the Witness Stand. *Children's Legal Rights Journal, 4,* 11-17.

Bernstein, B. E., & Claman, L. (1986). Modern technology and the child witness. *Child Welfare,65,* 155-163.

Boat, B. W., & Everson, Â. D. (1986). *Using Anatomical Dolls: Guidelines for Interviewing Young Children in Sexual Abuse Investigations.* Chapel Hill, NC: University of North Carolina.

Boat, B. W., & Everson, M. D. (1993). The use of anatomical dolls in sexual abuse evaluations: current research and practice. In G. Goodman & B. Bottoms (Eds.), *Child Victims, Child Witnesses - Understanding and Improving Testimony.* New York: Guildford Press.

Bottoms, B. L. (1993). Individual differences in perceptions of child sexual assault victims. In G. Goodman & B. Bottoms (Eds.), *Child Victims, Child Witnesses - Understanding and Improving Testimony.* New York: Guildford Press.

Bottoms, B. L., Goodman, G. S., Schwartz-Kenney, B., Sachsenmaier, T., & Thomas, S. (1990). *Keeping Secrets: Implications for Children's Testimony.* Paper presented at the American Psychology and Law Society Meetings, March 1990.

Brainerd, C., & Ornstein, P. (1991). Children's suggestibility: the developmental backdrop. In J. Doris (Ed.), *The Suggestibility of Children's Recollections.* Washington, D.C.: American Psychological Association.

Brennan, M., & Brennan, R. E. (1988). *Strange language - child victims under cross-examination.* Wagga Wagga: Riverina-Murray Institute of Higher Education.

Brooks, K. & Siegal, M. (1991). Children as eyewitnesses. Memory, Suggestibility and Credibility. *Australian Psychologist, 26,* 84-88.

Browne, A., & Finklehor, D. (1986). Impact of Child Sexual Abuse: A Review of the Research. *Psychological Bulletin, 99,* 66-77.

Bulkley, J. A. (1985). Evidentiary and procedural trends in States Legislation and other emerging legal issues in child sexual abuse cases. *Dickinson Law Review, 89,* 645-668.

Burgess, A., & Holmstrom, L. (1978). The child family during the court process. In A. Burgess, A. Groth, L. Holmstrom & S. Sgroi (Eds.), *Sexual Assault of Children and Adults.* Lexington, MA: Lexington Books.

Bussey, K. (1990). Adult influences on children's eyewitness testimony. In S. J. Ceci, (Chair). *Do Children Lie? Narrowing the Uncertainties.* American Psychology and Law Society Meeting, Williamsburg, Virginia.

Bussey, K., Lee, K., & Grimbeek, E. J. (1993). Lies and secrets: implications for children's reporting of sexual abuse. In G. Goodman & B. Bottoms (Eds.), *Child Victims, Child Witnesses - Understanding and Improving Testimony.* New York: Guildford Press.

Butler-Sloss, E. (1988). *Report of the Inquiry into Child Abuse in Cleveland in 1987.* London: HMSO.

Butterfield, E. C., Nelson, T. O., & Peck, V. (1988). Developmental aspects of the 'feeling-of-knowing'. *Developmental Psychology, 24,* 654-663.

Cashmore, J. (1990). The use of video technology for child witnesses. *Monash University Law Review,* 16, 228-250.

Cashmore, J. (1991). Problems and solutions in lawyer-child communication. *Criminal Law Journal, 15,* 193-202.

Cashmore, J. & Cahill, R. (1990). Achieving its objective? *Legal Services Bulletin, 15,* 155-157.

Caton, A., & Atwool, N. (1993). *Interviewing The Child - A perspective from the New Zealand Children and Young Persons Service.* Paper presented at the Child as a Witness Seminar. Otago University, Dunedin, June 1993.

Cavalin, H. (1966). Incestuous Fathers: A Clinical Report. *American Journal of Psychiatry, 1,* 1132-1138.

Ceci, S. J., & Bruck, M. (1993). The suggestibility of the child witness: A Historical review and synthesis. *Psychological Bulletin, 113,* 403-439.

Ceci, S. J., Ross, D. F. & Toglia, M. P. (Eds.), (1989). *Perspectives on Children's Testimony.* New York; Springer-Verlag.

Ceci, S. J., Ross, D. F, & Toglia, M. P., (1987). Age differences in suggestibility : narrowing the uncertainties. In S. J. Ceci, M. P. Toglia & D. F. Ross (Eds.), *Children's Eyewitness Memory.* New York: Springer-Verlag.

Ceci, S. J., Toglia, M. P., & Ross, D. F. (Eds.), (1987). *Children's Eyewitness Memory.* New York: Springer-Verlag.

Ceci, S. J., Toglia, M. P. & Ross, D. F. (1990). The suggestibility of pre-schooler's recollections: historical perspectives on current problems. In J. A. Hudson & R. Fivush (Eds.), *Emory Symposia in Cognition 3 : Knowing and Remembering in Young Children.* New York: Cambridge University Press.

Chance , E. J., & Goldstein, A. G. (1984). Face recognition memory: implications for children's eyewitness testimony. *Journal of Social Issues, 40,* 69-85.

Chaney, S. (1985). Videotaped Interviews with Child Abuse Victims: The search for truth under a Texas procedure. In *Papers from a National Policy Conference on Legal Reforms in Child Sexual Abuse Cases.* American Bar Association.

Clark-Weintraub, D. (1985). The use of videotaped testimony of victims in cases involving child sexual abuse: a constitutional dilemma. *Hofstra Law Review, 14,* 261-296.

Cohen, R. L., & Harnick, M. A. (1980). The susceptibility of child witnesses to suggestion. *Law and Human Behaviour, 4,* 201-210.

Colby, I. C., & Colby, D. N. (1987). Videotaped interviews in child sexual abuse cases: the Texas example. *Child Welfare, 66,* 25-34.

Cole, C. B. & Loftus, E. F. (1987). The memory of children. In S. J. Ceci, M. P. Toglia, M. P. & D. F. Ross (Eds.), *Children's Eyewitness Memory*. New York: Springer-Verlag.

Dale, P. S., Loftus, E. F., & Rathbun, L. (1978). The Influence of the Form of Question on the Eyewitness Testimony of Pre-school Children. *Journal of Psycholinguistic Research, 7,* 269-277.

Davies, G. M. (1988). Use of video in child abuse trials. *The Psychologist, 1,* 20-22.

Davies, G. M. (1991). Children on trial? Psychology, video-technology and the law. *The Howard Journal of Criminal Justice, 30,* 177-191.

Davies, G. M., Flin, R. & Baxter, J. (1986). The child witness. *The Howard Journal, 25,* 81-99.

Davies, G., Tarrant, A., & Flin, R. (1989). Close encounters of the witness kind: Children's memory for a simulated health inspection. *British Journal of Psychology, 80,* 415-429.

Davies, J., & Westcott, H. (1992). Video technology and the Child Witness. In H. Dent and R. Flin (Eds.), *Children as Witnesses.* (pp. 211-230). Chichester, England: J. Wiley & Sons.

Dent, R. (1991). Experimental studies of interviewing child witnesses. In J. Doris (Ed.), *The Suggestibility of Children's Recollections.* Washington: American Psychological Association. 138-146.

Dent, H., & Flin, R. (1992). (Eds.), *Children as Witnesses.* Chichester, England: J. Wiley & Sons.

Dent, H. R., & Stephenson, G. M. (1979). An experimental study of the effectiveness of different techniques of questioning child witnesses. *British Journal of Social and Clinical Psychology, 18,* 41-51.

De Young, M. (1987). Disclosing Sexual Abuse: Impact of Developmental Variables. *Child Welfare League of America, 66,* 217-223.

Dezwirek-Sas, L. (1992). Empowering Child Witnesses for Sexual Abuse Prosecution. In H. Dent and R. Flin (Eds.), *Children as Witnesses.* (pp. 18-200). Chichester, England: J. Wiley & Sons.

Dible, D. A., & Teske, R. H. C. Jn, (1993). An Analysis of the Persecutory Effects of a Child Sexual Abuse Victim - Witness Program. *Journal of Criminal Justice, 21,* 79-85.

Doris, J. (1991). (Ed.), *The Suggestibility of Children's Recollections.* Washington: American Psychological Association.

Farrar, M. J., & Goodman, G. S. (1990). Developmental differences in the relationship between script memory and episodic memory - Do they exist? In J. A. Hudson & R. Fivush (Eds.), *Emory Symposia in Cognition 3 : Knowing and Remembering in Young Children.* New York: Cambridge University Press.

Feldman, L. (1988). *Care Proceedings, 3rd Edition.* London: Longman Group U.K. Ltd.

Finkelhor, D. (1979). *Sexually Victimised Children.* New York: Free Press.

Fivush, R. (1993). Developmental perspectives on autobiographical recall. In G. Goodman & B. Bottoms (Eds.), *Child Victims, Child Witnesses - Understanding and Improving Testimony.* New York: Guildford Press.

Flin, R. H. (1988). The Psychological Evidence. *New Law Journal, August 26,* 608-610.

Flin, R. H. (1991). Commentary: A grand memory for forgetting. In J. Doris (Ed.), *The Suggestibility of Children's Recollections.* Washington: American Psychological Association. 138-146.

Flin, R. H. (1993). Hearing and testing children's evidence. In G. Goodman & B. Bottoms (Eds.). *Child Victims, Child Witnesses - Understanding and Improving Testimony.* New York: Guildford Press.

Flin, R. H., Bull, R., Boon, J., & Knox, A. (1992). Children in the Witness Box. In H. Dent & R. Flin (Eds.), *Children as Witnesses.* (pp. 16-180). Chichester, England: J. Wiley & Sons.

Flin, R. H., Davies, G. M., & Stevenson, Y. (1987). Children as Witnesses: Psychological Aspects of the English and Scottish System. *Medicine and Law, 6,* 275-291.

Flin, R. H., Stevenson, Y., & Davies, G. M. (1989). Children's knowledge of court proceedings. *British Journal of Psychology, 80,* 285-297.

Gabriano, J. & Stott, F. M., & The Faculty of Erikson Institute. (1989). *What Children Can Tell Us.* London: Jossey-Bass Inc.

Gallet, J. H. (1989). Judicial Management of Child Sexual Abuse Cases. *Family Law Quarterly, 23,* 477-488.

Geddis, D. C. (1993). *The Child as a Witness: A Review of the Legislative Amendments and Some Related Issues.* Paper presented at the Child as a Witness Seminar. Otago University, Dunedin, June 1993.

Geddis, D. C., Taylor, N. J., & Henegan, R. M. (1990). Child Sexual Abuse (I): Incidence, epidemiology, cause, diagnosis and effects - a critique of the literature. *New Zealand Law Journal, October,* 371-375.

Geiselman, R. E., Saywitz, K. J., & Bornstein, G. K. (1993). Effects of cognitive questioning techniques on children's recall performance. In G. Goodman & B. Bottoms (Eds.), *Child Victims, Child Witnesses - Understanding and Improving Testimony.* New York: Guildford Press.

German, C. W., Merin, J. L., & Rolfe, R. M. (1982). Videotape Evidence at Trial. *American Journal of Trial Advocacy, 6,* 209-239.

Gladwell, S. (1988). Child Sexual Abuse: Assessing seriousness. *Sexual and Marital Therapy, 3,* 129-130.

Glaser, D., & Frost, S. (1988). *Child Sexual Abuse.* London: MacMillan Education.

Goodman, G. S. (1984). Children's testimony in historical perspective. *Journal of Social Issues, 40,* 9-32.

Goodman, G. S. (1991). Commentary : On stress and accuracy in research on children's testimony. In J. Doris (Ed.), *The Suggestibility of Children's Recollections.* Washington: American Psychological Association. 138-146.

Goodman G. S., & Aman, C., (1990). Children's use of anatomically-detailed dolls to recount an event. *Child Development, 61,* 1859-1871.

Goodman, G. S., Aman, C., & Hirschman, J. (1987). Child sexual and physical abuse: children's testimony. In S. J. Ceci, M. P. Toglia, & D. F. Ross (Eds.), *Children's Eyewitness Memory.* New York: Springer-Verlag.

Goodman, G. S., Bottoms, B. L., Herscovici, B. B., & Shaver, P. (1989). Determinants of the child victim's credibility. In S. J. Ceci, D. F. Ross & M. P. Toglia (Eds.), *Perspectives on Children's Testimony.* New York: Springer-Verlag.

Goodman, G. S., & Clarke-Stewart, A. (1991). Suggestibility in Children's Testimony: Implications for Sexual Abuse Investigations. In J. Doris (Ed.), *The Suggestibility of Children's Recollections.* (pp. 92-105). Washington: American Psychological Association.

Goodman, G. S., Golding, J. M., & Haith, M. M. (1984). Jurors' reactions to child witnesses. *Journal of Social Issues, 40,* 139-156.

Goodman, G. S., Golding, J. M., Helgeson, V. S., Haith, M. M., & Michelli, J. (1987). When a Child Takes the Stand: Juror's Perceptions of Children's Eyewitness Testimony. *Law and Human Behavior, 11,* 27-40.

Goodman, G. S., & Helgeson, V. (1985). Child sexual assault: children's memory and the law. *University of Miami Law Review, 40,* 181-208.

Goodman, G. S., & Helgeson, V. S. (1988). Children as Witnesses: What do they remember? In L. E. A. Walker (Ed.), *Handbook on Sexual Abuse of Children.* (pp. 109-136). New York: Springer Publishing Co.

Goodman, G. S., Hepps, D., & Reed, R. S. (1986). The child victim's testimony. In A Haralambie (Ed.), *New Issues for Child Advocates.* Phoenix, Arizona: Arizona Association of Council for Children.

Goodman, G. S., Jones, D. P. H., Pyle, E. A., Prado-Estrada, L., Port, L. K., England, P., Mason, R. & Rudy, L. (1988). The emotional effects of criminal court testimony on child sexual assault victims: a preliminary report. In G. M. Davies & J. Drinkwater (Eds.), *The Child Witness: Do the Courts Abuse Children? Issues in Criminological and Legal Psychology, No. 13.* Leicester: British Psychological Society.

Goodman, G. S., Levine, M., Melton, G. B., & Ogden, D. W. (1991). Child Witnesses and the Confrontation Clause. *Law and Human Behaviour, 15,* 13-29.

Goodman, G. S., & Reed, R. S. (1986). Age Differences in Eyewitness Testimony. *Law and Human Behaviour, 10,* 317-322.

Goodman, G. S., Rudy, L., Bottoms, B. L., & Aman, C. (1990). Children's concerns and memory: Issues of ecological validity in the study of children's eyewitness testimony. In J. A. Hudson & R. Fivush (Eds.), *Emory Symposia in Cognition 3 : Knowing and Remembering in Young Children.* New York: Cambridge University Press.

Grant, J. P. (1987). "Face - to television screen - to face" : testimony by closed-circuit television in cases of alleged child abuse and the confrontation right. *Kentucky Law Review,* 76, 273-299.

Groth, N. (1978). The Treatment of Offenders. In L. Burgess, N. Groth, L. Holstrom, & S. Sgroi (Eds.), *The Sexual Assault of Children and Adolescents.* Lexington, MA.: Lexington Books.

Henegan, R. M., Taylor, N. J., & Geddis, C. D. (1990). Child Abuse (III): Child witnesses and the rules of evidence. *New Zealand Law Journal, December,* 425-431.

Hill, P. E., & Hill, S. M. (1987). Videotaping children's testimony: an empirical view. *Michigan Law Review, 85,* 809-833.

Hodge, W. C. (1991). *Criminal Procedure in New Zealand. (3rd ed.)* . Sydney: The Law Book Company Limited.

Hollingsworth, J. (1986). *Unspeakable Acts.* New York: Congdon & Weed.

Hoskins, J. G. (1983). The Rise and Fall of the Corroboration Rule in Sexual Offence Cases. *Canadian Journal of Family Law, 4,* 173-214.

Isquith, P. K., Levine, M., & Scheiner, J. (1993). Blaming the child: attribution of responsibility to victims of child sexual abuse. In G. Goodman & B. Bottoms (Eds.), *Child Victims, Child Witnesses - Understanding and Improving Testimony.* New York: Guildford Press.

Jackson, M. (1980). *The Sexual Abuse Project: A preliminary Survey.* Unpublished Manuscript.

Jackson, T. L., & Ferguson, W. P. (1983). Attribution of Blame in Incest. *American Journal of Community Psychology, 11,* 313-322.

Johnson, M. K., & Foley, M. A. (1984). Differentiating fact from fantasy : The reliability of children's memory. *Journal of Social Issues, 40,* 33-50.

Jones, D. P. H., & Krugman, R. D. (1986). Can a three-year-old child bear witness to her sexual assault and attempted murder? *Child Abuse and Neglect, 10,* 253-258.

Kail, R. (1990). *The Development of Memory in Children (3rd Edition).* New York: W. H. Freeman & Co.

Keeney, K. S., Amacher, E., & Kastanakis, J. (1992). The Court Prep Group: A Vital Part of the Court Process. In H. Dent & R. Flin (Eds.), *Children as Witnesses.* (pp. 201-210). Chichester, England: J. Wiley & Sons.

Kelley, S. J. (1990). Responsibility and Management Strategies in Child Sexual Abuse: A Comparison of Child Protective Workers, Nurses, and Police Officers. *Child Welfare, 69,* 43-51.

King, M. (1988). Use of video in child abuse trials: a reply to the Professional Affairs Board of the Society. *The Psychologist, 1,* 167-169.

King, M., & Yuille, J. C. (1987). Suggestibility and the child witness. In S. J. Ceci, M. P. Toglia & D. F. Ross (Eds.), *Children's Eyewitness Memory*. New York: Springer-Verlag.

Kornblum, G. D. (1972). Videotape in civil cases. *Hastings Law Journal, 24,* 9-26.

Legal Resources Trust (1993). *Being A Witness*. Wellington: Victim's Task Force.

Leippe, M. R., & Romanczyk, A. (1987). Children on the witness stand: A communication/persuasion analysis of jurors' reactions to child witnesses. In S. J. Ceci, M. P. Toglia & D. F. Ross (Eds.), *Children's Eyewitness Memory*. New York: Springer-Verlag.

Leippe, M. R., Manion, A. P., & Romanczyk, A. (1993). Discernibility or discrimination? Understanding jurors' reactions to accurate and inaccurate child and adult eyewitnesses. In G. Goodman & B. Bottoms (Eds.), *Child Victims, Child Witnesses - Understanding and Improving Testimony*. New York: Guildford Press.

Levine, M., & Battisoni, L. (1991). The Corroboration Requirement in Child Sex Abuse Cases. *Behavioural Sciences and The Law, 9,* 3-20.

Levy, R. J. (1989). Using "Scientific" Testimony to Prove Child Sexual Abuse. *Family Law Quarterly, 23,* 383-409.

Libai, D. (1969). The protection of the child victim of a sexual offence in the Criminal Justice System. *Wayne Law Review, 15,* 977-1032.

Lindsay, D. S., & Johnson, M. K. (1987). Reality monitoring and suggestibility: Children's ability to discriminate among memories from different sources. In S. J. Ceci, M. P. Toglia & D. F. Ross (Eds.), *Children's Eyewitness Memory*. New York: Springer-Verlag.

Lloyd-Bostock, S. (1988). *Law in Practice*. London: Camelot Press.

Loftus, E. F. (1979). *Eyewitness Testimony*. Cambridge, MA: Harvard University Press.

Loftus, E. F., & Davies, G. M. (1984). Distortions in the memory of children. *Journal of Social Issues, 40,* 51-67.

Loftus, E. F., & Palmer, J. C. (1974). Reconstruction of automobile destruction : An example of the interaction between language and memory. *Journal of Verbal Learning and Verbal Behaviour, 13,* 585-589.

Luus, E., & Wells, G. (1992). The Perceived Credibility of Child Eyewitnesses. In H. Dent & R. Flin (Eds.), *Children as Witnesses.* (pp. 73-92). Chichester, England: J. Wiley & Sons.

MacFarlane, K. (1985). Diagnostic evaluations and the use of videotapes in child sexual abuse cases. *University of Miami Law Review, 40,* 135-165.

MacFarlane, K. (1986). Videotaping of interviews and court testimony. In K. MacFarlane, J. Waterman, S. Conerly, L. Damon, M. Dunfee & S. Long. (Eds.), *Sexual Abuse of Young Children: Evaluation and Treatment.* London: Guildford Press.

MacFarlane, K., & Krebs, S. (1986). Techniques for interviewing and evidence gathering. In K. MacFarlane, J. Waterman, S. Conerly, L. Damon, M. Dunfee & S. Long. (Eds.), *Sexual Abuse of Young Children: Evaluation and Treatment.* London: Guildford Press.

MacKay, J. (1990). Opening address to the International Conference on Children's evidence. In J. R. Spencer, C. G. B. Nicholson, R. H. Flin & R. Bull (Eds.), *Children's Evidence in Legal Proceedings: An International Perspective.* Cambridge: Cambridge University Faculty of Law.

Margolin, L., & Craft, J. L. (1990). Child Abuse by Adolescent Caregivers. *Child Abuse and Neglect, 14,* 365-373.

Marin, B., Holmes, D., Guth, M. & Kovac, P. (1979). The potential of children as eyewitnesses. *Law and Human Behaviour, 3,* 295-306.

Marsh, J. (1990). Use of anatomically-detailed dolls in the assessment of child sexual abuse. *Family Law Bulletin, 2,* 118-120.

Marsh, J. (1991). Interviewing young children in sexual abuse cases. *Family Law Bulletin, 2,* 142-145.

Mason, M. A. (1992). Social Workers as Expert Witnesses in Child Sexual Abuse Cases. *Social Work, 37,* 30-34.

Melton, G. B. (1981). Children's Competency to Testify. *Law and Human Behavior, 5,* 73-85.

Melton, G. B., & Thompson, R. A. (1987). Getting out of a rut: Detours to less travelled paths in child-witness research. In S. J. Ceci, M. P. Toglia & D. F. Ross (Eds.), *Children's Eyewitness Memory.* New York: Springer-Verlag.

Miller, G. R., & Fontes, N. E. (1979). *Videotape on Trial: A View from the Jury Box.* California: Sage.

Moore, J. (1985). *The ABC of Child Abuse Work.* A Community Care Handbook, M. Davies (Ed.), England: Gower Ltd,

Moston, S. (1991). Assessing the credibility of children's statements. *The Journal of Child Law, Sept-Dec,* 125-127.

Moston, S. (1992). Social Support and Children's Eyewitness Testimony. In H. Dent & R. Flin (Eds.), *Children as Witnesses.* (pp. 33-46). Chichester, England: J. Wiley & Sons.

Moston, S., & Engelberg, T. (1992). The Effects of Social Support on Children's Eyewitness Testimony. *Applied Cognitive Psychology,* 61-75.

Mrazek, P. B., & Mrazek, D. A. (1981). The effects of child abuse: Methodological considerations. In P. B. Mrazek &C. H. Kempe, (Eds.), *Sexually Abused Children and Their Families.* New York: Pergamon Press. Chapter 18.

Myers, J. E. B. (1987). *Child Witness Law and Practice.* New York: Wiley.

National Advisory Committee on the Prevention of Child Abuse. (October, 1986). *Guidelines for the Investigation and Management of Child Sexual Abuse.* Wellington, New Zealand.

Naylor, B. (1989a). The Child in the Witness Box. *The Australia and New Zealand Journal of Criminology, 22,* 82-94.

Naylor, B. (1989b). Dealing with Child Sexual Assault - Recent Developments. *British Journal of Criminology, 29,* 395-407.

Neisser, U. (1990) Learning from the children. In J. A. Hudson & R. Fivush (Eds.), *Emory Symposia in Cognition 3 : Knowing and Remembering in Young Children.* New York; Cambridge University Press.

New Zealand Advisory Committee on the Investigation, Detection and Prosecution of Offences Against Children. (October, 1988). *A Private or Public Nightmare? - Report of the Advisory Committee on the Investigation, Detection and Prosecution of Offences Against Children.* Wellington, New Zealand.

Oates, R. K. (1990). Children as witnesses. *The Australian Law Journal, 64,* 129-134.

Ochsner, J. E. & Zaragoza, M. (1988). The accuracy and suggestibility of children's memory for neutral and criminal eyewitness events. Cited in Goodman, G. S. (1991). Commentary : On stress and accuracy in research on children's testimony. In J. Doris (Ed.), *The Suggestibility of Children's Recollections.* (pp. 138-146) Washington: American Psychological Association.

Ornstein, P. (1991). Commentary: Putting Interviewing in Context. In J. Doris (Ed.), *The Suggestibility of Children's Recollections.* (pp. 147-152) Washington: American Psychological Association.

Penrod, S., Bull, M. A., & Lengnick, S. (1989). Children as Observers and Witnesses: The Empirical Data. *Family Law Quarterly, 23,* 411-431.

Peters, D. P. (1987). The impact of naturally occurring stress on children's memory. In. S. J. Ceci, M. P. Toglia & D. F. Ross (Eds.), *Children's Eyewitness Memory.* New York: Springer-Verlag.

Peters, D. P. (1991). The influence of stress and arousal in research on children's testimony. In J. Doris, (Ed.), *The Suggestibility of Children's Recollections.* Washington, D. C.: American Psychological Association.

Pipe, M-E. (1993). *Children's Testimony: Current Issues and Research.* Paper presented at the Child as a Witness Seminar, Otago University, Dunedin, June 1993.

Pipe, M-E., Gee, S., & Wilson, C. (1993). Cues, Props and Context: Do they facilitate children's event reports? In G. Goodman & B. Bottoms (Eds.), *Child Victims, Child Witnesses - Understanding and Improving Testimony.* New York: The Guildford Press.

Pipe, M-E., & Goodman, G. S. (1991). Elements of Secrecy: Implications for Children's Testimony. *Behavioural Sciences and The Law, 9,* 33-41.

Pow, G. (1986). *The Psychological Consequences of Sexual Assault: A Literature Review.* Wellington: Accident Compensation Corporation.

Price, D. W. W. & Goodman, G. S. (1990). Visiting the wizard: Children's memory for a recurring event. *Child Development, 61,* 664-680.

Pynoos, R. & Eth, S. (1984). The child as witness to homicide. *Journal of Social Issues, 40,* 87-108.

Pynoos, R. S., & Eth, S. (1986). Witness to Violence: The Child Interview. *Journal of the American Academy of Child Psychiatry, 25,* 306-319.

Pynoos, R., & Nader, K. (1988). Children who witness the sexual assault of their mothers. *Journal of the American Academy of Child and Adolescent Psychiatry , 27,* 567-572.

Raskin, D. C., & Esplin, P. W. (1991). Assessment of Children's Statements of Sexual Abuse. In J. Doris (Ed.), *The Suggestibility of Children's Recollections.* (pp. 153-164) Washington: American Psychological Association..

Ross, D. F., Dunning, D., Toglia, M. P., & Ceci, S. J. (1989). Age stereotypes, communication modality, and mock jurors' perceptions of the child witness. In S. J. Ceci, D. F. Ross & M. P. Toglia (Eds.), *Perspectives on Children's Testimony.* New York: Springer-Verlag.

Ross, D. F., Miller, B. S. & Moran, P. B., (1987). The child in the eyes of the Jury : Assessing mock jurors' perceptions of the child witness. In S. J. Ceci, M. P.

Toglia & D. F. Ross (Eds.), *Children's Eyewitness Memory.* New York: Springer-Verlag.

Runyan, D. K. (1993). The emotional impact of societal intervention into child abuse. In G. Goodman & B. Bottoms (Eds.), *Child Victims, Child Witnesses - Understanding and Improving Testimony.* New York: The Guildford Press.

Russell, D. E. H. (1983). The Incidence and Prevalence of Intrafamilial and Extrafamilial Sexual Abuse of Female Children. *Child Abuse & Neglect, 7,* 133 - 146.

Russell, D. E. H. (1984). *Sexual Exploitation.* Beverly Hills, CA: Sage.

Russell, D. E. H. (1986). *The Secret Trauma: Incest in the Lives of Girls And Women.* New York: Basic Books.

Saphira, M. (1985). *The Sexual Abuse of Children.* Auckland: Inter Print.

Saphira, M. (1987). *For Your Child's Sake - Understanding Sexual Abuse.* Auckland: Reed Methuen Publishers Ltd.

Saywitz, K. J. (1987). Children's Testimony: Age-related patterns of memory errors. In S. J. Ceci, M. P. Toglia & D. F. Ross (Eds.), *Children's Eyewitness Memory.* New York: Springer-Verlag.

Saywitz, K. J., & Snyder, L. (1993). Improving children's testimony with preparation. In G. Goodman & B. Bottoms (Eds.), *Child Victims, Child Witnesses - Understanding and Improving Testimony.* New York: The Guildford Press.

Schor, D. P., & Sivan, A. B. (1989). Interpreting children's labels for sex-related body parts of anatomically explicit dolls. *Child Abuse & Neglect, 13,* 523 - 531.

Selkin, J., & Schouten, P. G. W. (1987). *The Child Sexual Abuse Case in the Courtroom : A Source Book.* Denver, Colorado: James Selkin.

Sgroi, S. M., Blick, L. C., & Porter, F. S. (1982). A conceptual framework for child sexual abuse. In S. M. Sgroi (Ed.), *Handbook of clinical intervention in child sexual abuse.* Lexington, Massachusetts: Lexington Books.

Sharp, F. (1989). Video evidence - a doubtful benefit for children. *The Journal of Child Law, April/June* 95-97.

Shuart, K. L., & Olson, L. K. E. (1983). Audio and video technology in the court: Will their time ever come? *The Justice System Journal, 8,* 278-306.

Smith, G. (1988). Use of video recordings in legal proceedings. *The Psychologist, 1,* 405.

Spencer, J. R. (1987a). Child witnesses, video technology and the law of evidence. *Criminal Law Review,* 76-83.

Spencer, J. R. (1987b). Child witnesses, corroboration and expert evidence. *Criminal Law Review,* 239-251.

Spencer, J. R. (1988). How not to reform the law. *New Law Journal, July 15,* 497-499.

Spencer, J. R., (1989). When is the videotape of an interview with a child admissible in criminal proceeding? *The Journal of Child Law, March,* 38-41.

Spencer, J. R. (1990). Children's evidence in legal proceedings in England. In J. R. Spencer, G. Nicholson, R. Flin & R. Bull (Eds.), *Children's Evidence in Legal Proceedings : An International Perspective.* (pp. 113-125) Chippenham, England: Antony Rowe Ltd. .

Spencer, J. R. & Flin, R. (1990). *The Evidence of Children: The Law and the Psychology.* London: Blackstone Press Ltd.

Spencer, J. R., & Tucker, P. G. (1987). The Evidence of Absent Children. *New Law Journal, August 28,* 816-7.

Spier, P., Norris, M., & Southey, P. (1992). *Conviction and Sentencing of Offenders in New Zealand: 1982 to 1991.* Wellington: Department of Justice Policy and Research Division.

Steller, M. & Boychuk, T. (1992). Children as Witnesses in Sexual Abuse Cases: Investigative Interview and Assessment Techniques. In H. Dent and R. Flin

(Eds.), *Children as Witnesses.* (pp. 47-72) Chichester, England: J. Wiley & Sons.

Stern, P. (1992). Videotaping Child Interviews. - A Detriment to an Accurate Determination of Guilt. *Journal of Interpersonal Violence, 7,* 278-284.

Stephenson, C. (1992). Videotaping and How it Works Well in San Diego. *Journal of Interpersonal Violence, 7,* 284-288.

Summit, R. C. (1983). The sexual abuse accommodation syndrome. *Child Abuse & Neglect, 7,* 177-193.

Taylor, N. J., Geddis, D. C., & Henegan, R. M. (1990). Child Sexual Abuse (II): Obtaining accurate testimony from child victims. *New Zealand Law Journal,* 388-393.

Terr, L. C. (1980). The Child as a Witness. In D. H. Schetky & E. P. Benedek (Eds.), *Child Psychiatry and the Law.* New York: Brunner/Mazel.

Undeutsch, U. (1982). Statement Reality Analysis. In A. Trankell (Ed.), *Reconstructing the Past: The Role of Psychologists in Criminal Trials.* (pp. 27-56) Stockholm: Norstedt & Somers.

Vizard, E. (1987). Interviewing young, sexually abused children - assessment techniques. *Family Law,* 28-33.

Vizard, E. (1990). Interviewing children suspected of being sexually abused: principles and practice. In C. Hollin & K. Howells (Eds.), *Clinical Approaches to Sex Offenders and their Victims.* Chichester: Wiley.

Vizard, E., Bentovim, A., & Tranter, M. (1987). Interviewing sexually abused children. *Adoption and Fostering, 11,* 20-27.

Walker, L. E. A. (1990). Psychological Assessment of Sexually Abused Children for Legal Evaluation and Expert Witness Testimony. *Professional Psychology: Research and Practice, 21,* 344-353.

Walker, L. E. A., & Bolkovatz, M. A. (1988). Play Therapy with Children who have Experienced Sexual Assault. In L. E. A. Walker (Ed.), *Handbook on Sexual Abuse of Children.* (pp. 249-269) New York: Springer Publishing Co.

Warner, K. (1988). Child Witnesses in Sexual Assault Cases. *Criminal Law Journal, 12,* 286-302.

Warner, K. (1990). Child witnesses: Developments in Australia and New Zealand. In J. R. Spencer, G. Nicholson, R. Flin & R. Bull (Eds.), *Children's Evidence in Legal Proceedings : An International Perspective.* (pp. 158-174) Chippenham, England: Antony Rowe Ltd.

Watkins, W. G. A., & Bentovim, A. (1992). The Sexual Abuse of Male Children and Adolescents: A Review of Current Research. *Journal of Child Psychiatry, 33,* 197-248.

Wehrspann, W. H., Steinhauer, P. D., & Klajner-Diamond, H. (1987). Criteria and Methodology for Assessing Credibility of Sexual Abuse Allegation. *Canadian Journal of Psychiatry, 32,* 615-623.

Weiss, E. R., & Berg, R. F. (1982). Child Psychiatry and the Law: Child Victims of Sexual Assault: Impact of Court Proceedings. *Journal of the American Academy of Child Psychiatry, 21,* 513-518.

Wells, G. L. & Loftus, E. F. (1984). Eyewitness research: Then and now. In G. L. Wells & E. F. Loftus (Eds.), *Eyewitness Testimony,* New York: Cambridge University Press.

Wells, G. L., Turtle, J. W., & Luus, C. A. E. (1989). The perceived credibility of child eyewitnesses: What happens when they use their own words ? In S. J. Ceci, D. F. Ross & M. P. Toglia (Eds.), *Perspectives on Children's Testimony.* New York: Springer-Verlag.

Westcott, H., Davies, G., & Clifford, B. (1991a). The credibility of child witnesses seen on closed-circuit television. *Adoption and Fostering, 15,* 14-19.

Westcott, H., Davies, G., & Clifford, B. (1991b). Adults' perceptions of children's videotaped truthfulness and deceptive statements. *Children and Society, 5,* 123-135.

Whitcomb, D. (1990). When the victim is a child: Past hope, current reality and future prospects of legal reform in the United States. In J. R. Spencer, G. Nicholson, R. Flin & R. Bull (Eds.), *Children's Evidence in Legal Proceedings: An International Perspective.* (pp. 133-146) Chippenham, England: Antony Rowe Ltd.

Whitcomb, D., Shapiro, E. R., & Stellwagen, L. D. (1985). *When the Victim is a Child: Issues for Judges and Prosecutors.* Washington, DC: National Institute of Justice, U. S. Govt, Printing Office.

White, S., Strom, G., Santilli, G., & Quinn, K. M. (1987). *Guidelines for interviewing pre-schoolers with sexually anatomically detailed dolls.* Unpublished manuscript.

Williams, G. L. (1963). *The Proof of Guilt.* London: Stevens & Sons.

Williams, G. (1987a). Videotaping Children's Evidence. *New Law Journal,* 108-112.

Williams, G. (1987b). The Corroboration Question. *New Law Journal,* 131-133.

Williams, G. (1987c). More About Videotaping Children. *New Law Journal,* 351-2.

Wilson, J. (1990). A perspective on the Canadian position. In J. R. Spencer, C. G. B. Nicholson, R. H. Flin & R. Bull (Eds.), *Children's Evidence in Legal Proceedings: An International Perspective.* Cambridge: Cambridge University Faculty of Law.

Wilson, J. C., & Pipe, M-E. (1989). The effects of cues on young children's recall of real events. *New Zealand Journal of Psychology, 18,* 65-70.

Witke, A. R. (1983). Open forum - A videotape is worth a thousand words: The use of demonstrative evidence in the defence of an automobile products liability case. *Insurance Counsel Journal,* 94-105.

Yarmey, A. D. (1984). Age as a factor of eyewitness memory. In G. L. Wells & E. F. Loftus (Eds.), *Eyewitness Testimony.* New York: Cambridge University Press.

Yuille, J. C. (1988). The systematic assessment of children's testimony. *Canadian Psychology, 29,* 247-262.

Yuille, J. C., Hunter, R., Joffe, R. & Zaparniuk, J. (1993). Interviewing children in sexual abuse cases. In G. Goodman & B. Bottoms (Eds.), *Child Victims, Child Witnesses - Understanding and Improving Testimony.* New York: The Guildford Press.

Zaragoza, M. (1987). Memory, suggestibility, and eyewitness testimony in adults and children. In S. J. Ceci, M. P. Toglia & D. F. Ross (Eds.), *Children's Eyewitness Memory.* New York: Springer-Verlag.

Zaragoza, M. (1991). Pre-school children's susceptibility to memory impairment. Doris, J. (Ed.), *The Suggestibility of Children's Recollections.* Washington: American Psychological Association.

APPENDICES.

APPENDIX A.

EVIDENCE AMENDMENT

ANALYSIS

An Act to amend the Evidence Act 1908

BE IT ENACTED by the Parliament of New Zealand as follows:

1. Short Title and commencement—(1) This Act may be cited as the Evidence Amendment Act 1989, and shall be read together with and deemed part of the Evidence Act 1908 (hereinafter referred to as the principal Act).

(2) Sections 2 and 3 of this Act shall come into force on the 1st day of January 1990.

(3) Except as provided in subsection (2) of this section, this Act shall come into force on the date on which it receives the Royal assent.

2. Evidence of complainant in cases of sexual nature—(1) Section 23A of the principal Act (as substituted by section 2 of the Evidence Amendment Act (No. 2) 1985) is hereby amended by repealing subsection (1), and substituting the following subsection:

"(1) For the purposes of this section, 'case of a sexual nature' means proceedings in which a person is charged with, or is to be sentenced for, any of the following offences:

"(a) Any offence against any of the provisions of sections 128 to 142A of the Crimes Act 1961:

"(b) Any other offence against the person of a sexual nature:

"(c) Being a party to the commission of any offence referred to in paragraph (a) or paragraph (b) of this subsection:

"(d) Conspiring with any person to commit any such offence."

(2) Section 23A (2) of the principal Act (as so substituted) is hereby amended by omitting the words "case involving sexual violation", and substituting the words "case of a sexual nature".

3. New heading and sections (relating to cases involving child complainants) inserted—The principal Act is hereby amended by inserting, after section 23B (as inserted by section 3 of the Crimes Amendment Act 1979), the following heading and sections:

"Rules in Cases Involving Child Complainants

"23C. **Application of sections 23D to 23I**—Sections 23D to 23I of this Act apply to every case where—

"(a) A person is charged with—

"(i) Any offence against any of the provisions of sections 128 to 142A of the Crimes Act 1961; or

"(ii) Any other offence against the person of a sexual nature; or

"(iii) Being a party to the commission of any offence referred to in subparagraph (i) or subparagraph (ii) of this paragraph; or

"(iv) Conspiring with any person to commit any such offence; and

"(b) The complainant has not, at the commencement of the proceeding, attained the age of 17 years.

"23D. **Directions as to mode by which complainant's evidence is to be given**—(1) Where, in any case to which this section applies, the accused is committed for trial, the prosecutor shall, before the trial, apply to a Judge of the Court by or before which the indictment is to be tried for directions under section 23E of this Act as to the mode by which the complainant's evidence is to be given at the trial.

"(2) The Judge shall hear and determine the application in chambers, and shall give each party an opportunity to be heard in respect of the application.

"(3) The Judge may call for and receive any reports from any persons whom the Judge considers to be qualified to advise on the effect on the complainant of giving evidence in person in the ordinary way or in any particular mode described in section 23E of this Act.

"(4) In considering what directions (if any) to give under section 23E of this Act, the Judge shall have regard to the need to minimise stress on the complainant while at the same time ensuring a fair trial for the accused.)

"23E. **Modes in which complainant's evidence may be given**—(1) On an application under section 23D of this Act, the Judge may give any of the following directions in respect of the mode in which the complainant's evidence is to be given at the trial:

"(a) Where a videotape of the complainant's evidence was shown at the preliminary hearing, a direction that the complainant's evidence be admitted in the form of that videotape, with such excisions (if any) as the Judge may order under subsection (2) of this section:

"(b) Where the Judge is satisfied that the necessary facilities and equipment are available, a direction that the complainant shall give his or her evidence outside the courtroom but within the Court precincts, the evidence being transmitted to the courtroom by means of closed circuit television:

"(c) A direction that, while the complainant is giving evidence or is being examined in respect of his or her evidence, a screen, or one-way glass, be so placed in relation to the complainant that—

"(i) The complainant cannot see the accused; but

"(ii) The Judge, the jury, and counsel for the accused can see the complainant:

"(d) Where the Judge is satisfied that the necessary facilities and equipment are available, a direction that, while the complainant is giving evidence or is being examined in respect of his or her evidence, the complainant be placed behind a wall or partition, constructed in such a manner and of such materials as to enable those in the courtroom to see the complainant while preventing the complainant from seeing them, the evidence of the complainant being given through an appropriate audio link:

"(e) Where the Judge is satisfied that the necessary facilities and equipment are available, a direction that—

"(i) The complainant give his or her evidence at a location outside the Court precincts; and

"(ii) That those present while the complainant is giving evidence include the Judge, the accused, counsel, and such other persons as the Judge thinks fit; and

"(iii) That the giving of evidence by the complainant be recorded on videotape, and that the complainant's evidence be admitted in the form of that videotape, with such excisions (if any) as the Judge may order under subsection (2) of this section.

"(2) Where a videotape of the complainant's evidence is to be shown at the trial, the Judge shall view the videotape before it is shown, and may order excised from the videotape any matters that, if the complainant's evidence were to be given in person in the ordinary way, would be excluded either—

"(a) In accordance with any rule of law relating to the admissibility of evidence; or

"(b) Pursuant to any discretion of a Judge to order the exclusion of any evidence.

"(3) Where a videotape of the complainant's evidence is to be shown at the trial, the Judge shall give such directions under this section as the Judge may think fit relating to the manner in which any cross-examination or re-examination of the complainant is to be conducted.

"(4) Where the complainant is to give his or her evidence in the mode described in paragraph (b) or paragraph (d) of subsection (1) of this section, the Judge may direct that any questions to be put to the complainant shall be given through an appropriate audio link to a person, approved by the Judge, placed next to the complainant, who shall repeat the question to the complainant.

"(5) Where the complainant is to give his or her evidence at a location outside the Court precincts, the Judge may also give any directions under paragraph (c) or paragraph (d) of subsection (1) of this section that the Judge thinks fit.

"(6) Where a direction is given under this section, the evidence of the complainant shall be given substantially in accordance with the terms of the direction; but no such evidence shall be challenged in any proceedings on the ground of any failure to observe strictly all the terms of the direction.

"23F. **Cross-examination and questioning of accused**—(1) Notwithstanding section 354 of the Crimes Act 1961, but subject to the succeeding provisions of this section, the accused shall not be entitled in any case to which this section applies to cross-examine the complainant.

"(2) Nothing in subsection (1) of this section nor any direction given under section 23E of this Act shall affect the right of counsel for the accused to cross-examine the complainant.

"(3) Where the accused is not represented by counsel, the accused may put questions to the complainant (whether by means of an appropriate audio link or otherwise as the Judge may direct) by stating the questions to a person, approved by the Judge, who shall repeat the questions to the complainant.

"(4) No direction given under section 23E of this Act shall affect the right of the Judge to question the complainant.

"(5) Where the complainant is being cross-examined by counsel for the accused, or any questions are being put to the complainant by the accused, the Judge may disallow any question put to the complainant that the Judge considers is, having regard to the age of the complainant, intimidating or overbearing.

"23G. **Expert witnesses**—(1) For the purposes of this section, a person is an expert witness if that person is—

"(a) A medical practitioner registered as a psychiatric specialist under regulations made pursuant to section 39 of the Medical Practitioners Act 1968, practising or having practised in the field of child psychiatry and with experience in the professional treatment of sexually abused children; or

"(b) A psychologist registered under the Psychologists Act 1981, practising or having practised in the field of child psychology and with experience in the professional treatment of sexually abused children.

"(2) In any case to which this section applies, an expert witness may give evidence on the following matters:

"(a) The intellectual attainment, mental capability, and emotional maturity of the complainant, the witness's assessment of the complainant being based on—

"(i) Examination of the complainant before the complainant gives evidence; or

"(ii) Observation of the complainant giving evidence, whether directly or on videotape:

"(b) The general development level of children of the same age group as the complainant:

"(c) The question whether any evidence given during the proceedings by any person (other than the expert witness) relating to the complainant's behaviour is from the expert witness's professional experience or from his or her knowledge of the professional literature, consistent or inconsistent with the behaviour of sexually abused children of the same age group as the complainant.

"23H. **Directions to jury**—Where a case to which this section applies is tried before a jury, the following provisions shall apply in respect of the Judge's directions to the jury:

"(a) Where the evidence of the complainant is given in any particular mode described in section 23E of this Act, the Judge shall advise the jury that the law makes special provision for the giving of evidence by child complainants in such cases, and that the jury is not to draw any adverse inference against the accused from the mode in which the complainant's evidence is given:

"(b) The Judge shall not give any warning to the jury relating to the absence of corroboration of the evidence of the complainant if the Judge would not have given such a warning had the complainant been of full age:

"(c) The Judge shall not instruct the jury on the need to scrutinise the evidence of young children generally with special care nor suggest to the jury that young children generally have tendencies to invention or distortion:

"(d) Nothing in paragraph (b) or paragraph (c) of this section shall limit the discretion of the Judge to comment on—

"(i) Specific matters raised in any evidence during the trial; or

"(ii) Matters, whether of a general or specific nature, included in the evidence of any expert witness to whom section 23G of this Act applies.

"23I. **Regulations**—The Governor-General may from time to time, by Order in Council, make regulations for all or any of the following purposes:

"(a) Prescribing the procedure to be followed, the type of equipment to be used, and the arrangements to be

made, where the evidence of a complainant is to be given by videotape:

"(b) Providing for the approval of interviewers or classes of interviewers in such cases, providing for the proof of any such approval to be by production of a certificate and prescribing the form of that certificate, and prescribing the form of certificate by which the interviewer is to formally identify the videotape:

"(c) Providing for the consent of the complainant to being videotaped, and specifying who may give consent on behalf of the complainant:

"(d) Prescribing the uses to which any such videotapes may be put, and prohibiting their use for any other purposes:

"(e) Providing for the safe custody of any such videotapes:

"(f) Providing for such other matters as are contemplated by any of sections 23D to 23H of this Act or as may be necessary for the due administration of those provisions."

4. Disclosure in civil proceeding of communication to medical practitioner or clinical psychologist—(1) Section 32 (1) of the Evidence Amendment Act (No. 2) 1980 is hereby amended by omitting the words "a registered medical practitioner shall not", and substituting the words "no registered medical practitioner and no clinical psychologist shall".

(2) Section 32 (2) (b) of the Evidence Amendment Act (No. 2) 1980 is hereby amended by inserting, after the words "a registered medical practitioner", the words "or a clinical psychologist".

(3) Section 32 (3) of the Evidence Amendment Act (No. 2) 1980 is hereby amended by repealing the definition of the term "protected communication", and substituting the following definitions:

" 'Clinical psychologist' means a psychologist registered under the Psychologists Act 1981 who is engaged in the diagnosis and treatment of persons suffering from mental and emotional problems; and includes any person acting in a professional character on behalf of the clinical psychologist in the course of the treatment of any patient by that psychologist:

" 'Protected communication' means a communication to a registered medical practitioner or a clinical psychologist by a patient who believes that the communication is necessary to enable the registered medical practitioner or clinical psychologist to examine, treat, or act for the patient:".

5. Disclosure in criminal proceeding of communication to medical practitioner or clinical psychologist—(1) Section 33 (1) of the Evidence Amendment Act (No. 2) 1980 is hereby amended by omitting the words "a registered medical practitioner shall not", and substituting the words "no registered medical practitioner and no clinical psychologist shall".

(2) Section 33 of the Evidence Amendment Act (No. 2) 1980 is hereby amended by repealing subsection (3), and substituting the following subsection:

"(3) In subsection (1) of this section, 'protected communication' means a communication made to a registered medical practitioner or a clinical psychologist by a patient who believes that the communication is necessary to enable the registered medical practitioner or clinical psychologist to examine, treat, or act for the patient for—

"(a) Drug dependency; or

"(b) Any other condition or behaviour that manifests itself in criminal conduct;—

but does not include any communication made to a registered medical practitioner or a clinical psychologist by any person who has been required by any order of a Court, or by any person having lawful authority to make such requirement, to submit himself or herself to the medical practitioner or clinical psychologist for any examination, test, or other purpose."

(3) Section 33 (4) of the Evidence Amendment Act (No. 2) 1980 is hereby amended by inserting, before the definition of the term "drug dependency", the following definition:

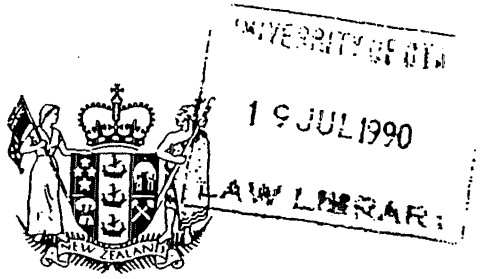
" 'Clinical psychologist' means a psychologist registered under the Psychologists Act 1981 who is engaged in the diagnosis and treatment of persons suffering from mental and emotional problems; and includes any person acting in a professional character on behalf of the clinical psychologist in the course of the treatment of any patient by that psychologist:".

6. Transitional provision—Section 2 of this Act shall not apply in respect of any hearing or other proceeding that has commenced before the 1st day of January 1990; and in respect of any such hearing or other proceeding, section 23A of this Act

(as substituted by section 4 of the Evidence Amendment Act (No. 2) 1985) shall continue to apply as if this Act had not been enacted.

WELLINGTON, NEW ZEALAND: Printed under the authority of the New Zealand Government by V. R. WARD, Government Printer—1989

10041F—89N



THE EVIDENCE (VIDEOTAPING OF CHILD COMPLAINANTS) REGULATIONS 1990

PAUL REEVES, Governor-General

ORDER IN COUNCIL

At Wellington this 9th day of July 1990

Present:

HIS EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL

PURSUANT to section 23I of the Evidence Act 1908 (as inserted by section 3 of the Evidence Amendment Act 1989), and, in relation to preliminary hearings, pursuant also to section 212 of the Summary Proceedings Act 1957, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, hereby makes the following regulations.

ANALYSIS

REGULATIONS

1. Title and commencement—(1) These regulations may be cited as the Evidence (Videotaping of Child Complainants) Regulations 1990.

(2) These regulations shall come into force on the 28th day after the date of their notification in the *Gazette*.

2. Interpretation—In these regulations, unless the context otherwise requires,—

"Commissioner" means the Commissioner of Police under the Police Act 1958:

"Director-General" means the Director-General of Social Welfare, being the chief executive of the Department of Social Welfare appointed under section 35 of the State Sector Act 1988:

"Master tape", in relation to a videotape, has the meaning given to it by regulation 7 of these regulations:

"Videotape" means any visual recording produced by electronic means; and includes any associated sound recording:

"Working copy", in relation to a videotape, has the meaning given to it by regulation 7 (2) of these regulations.

3. Application—These regulations apply where, in any case described in section 23C of the Evidence Act 1908 or section 185CA of the Summary Proceedings Act 1957, the complainant's evidence is to be admitted in the form of a videotape.

4. Persons present during videotaping—(1) Subject to subclauses (2) and (3) of this regulation, while the videotaping of the complainant's evidence is taking place, the only persons present shall be the interviewer, the complainant, and any person who is needed to operate the equipment.

(2) Where the interviewer considers that it is in the interests of the complainant to have a person present to support the complainant, the interviewer may allow an appropriate person to be present for that purpose, but that person shall not take any part in the interview.

(3) Where the first or preferred language of the complainant is other than English, or the complainant is unable to hear or speak but is able to communicate by sign language, a suitably qualified interpreter may also be present.

5. Matters to be recorded—(1) The videotape shall show the following matters:

(a) The interviewer stating the date, and the time at which the recording starts:

(b) Each person present (including the complainant) identifying himself or herself:

(c) The interviewer—

(i) Determining that the complainant understands the necessity to tell the truth; and

(ii) Obtaining from the complainant a promise to tell the truth, where the interviewer is satisfied that the complainant is capable of giving, and willing to give, a promise to that effect:

(d) The interview in its entirety:

(e) Where, for any reason, a break is taken during the interview, the interviewer stating that fact, the duration of the break, and the reasons for it:

(f) Where, for any reason, the interviewer decides to conclude the interview without asking all the intended questions, the interviewer stating that fact, and the reasons for the premature conclusion:

(g) The interviewer stating the time at which the recording is finishing.

(2) No particular form of words shall be necessary for the purposes of subclause (1) (c) (ii) of this regulation (either by the interviewer or the complainant) so long as the overall effect is a promise by the complainant to tell the truth.

(3) In addition to the matters specified in subclause (1) of this regulation, an analogue clock, with a second sweephand, correctly recording the time shall be clearly visible throughout the videotape.

(4) Where, in accordance with regulation 4 (2) of these regulations, a person is present during the interview to support the complainant, that person also shall be clearly visible throughout the videotape.

6. Equipment failure—If, during the interview, the video equipment fails and the fault cannot be rectified immediately, the videotape shall be removed and dealt with in accordance with the succeeding provisions of these regulations, and the interview shall be recommenced as soon as practicable on another videotape.

7. Master tape and working copy—(1) There shall be 2 videotapes made of an interview, being the master tape and the working copy.

(2) For the purposes of these regulations,—

(a) The master tape shall be either—

(i) One of the videotapes used in a twin-deck machine or in linked machines recording simultaneously; or

(ii) The only videotape used in a single-deck machine; and

(b) The working copy shall be either—

(i) The second videotape used in a twin-deck machine or in linked machines recording simultaneously; or

(ii) A copy of the master tape made as soon as practicable after the conclusion of the interview.

8. Master tape—(1) The master tape shall be sealed with a certificate in the form set out in the Schedule to these regulations.

(2) The master tape shall be placed in safe custody with the Police.

(3) The Police shall keep a record of the date on which the master tape was received into safe custody, and of the particulars of any dealings with the tape thereafter.

9. Working copy—(1) The working copy shall be identified by a copy of the certificate in the form in the Schedule to these regulations, and placed in safe custody with the Police.

(2) A record shall be kept of every person who views the videotape, including the name and designation of each such person and the date on which that person viewed the videotape. The record shall be kept with the working copy.

10. Purposes for which videotape may be shown—The videotape may be shown by the Police for the following purposes only:

(a) To determine whether—

(i) Any, and if so what, charges should be laid; or

(ii) Care or protection proceedings should be instituted:

(b) To allow any of the following persons to know the case against him or her:

(i) A person suspected of having committed an offence against the complainant:

(ii) A defendant to any charge laid in respect of which the videotape may be used in evidence:

(iii) An accused in respect of any indictment presented in respect of which the videotape may be used in evidence:

(c) To allow the complainant to see the videotape:

(d) To allow any solicitor or counsel representing any person referred to in paragraph (b) of this regulation or representing the complainant to see the videotape:

(e) To enable the Commissioner or any other member of the Police to discharge his or her duties under any enactment:

(f) To assist the Police in any further investigations relating to suspected offences of a sexual nature that may have been committed by any person referred to in paragraph (b) of this regulation.

11. Copies of working copy—(1) Nothing in regulation 9 of these regulations prevents the Police from making copies of the working copy.

(2) Where the Department of Social Welfare requires a copy of the videotape for the purpose of—

(a) Allowing the complainant to see the videotape; or

(b) Enabling the Director-General, or any social worker employed in the Department of Social Welfare, to discharge his or her duties under any enactment,—

that Department may request the Police to supply a copy of the videotape to the Department for that purpose.

(3) The Police, on receiving a request under subclause (2) of this regulation, shall supply to the Department of Social Welfare either—

(a) The working copy; or

(b) A copy of the working copy.

(4) The Department of Social Welfare shall place in safe custody every working copy or copy of a working copy supplied to that Department under subclause (3) of this regulation.

(5) Where the copy supplied to the Department of Social Welfare under subclause (3) (a) of this regulation is the working copy, that copy shall be returned to the Police upon request.

(6) Subject to subclause (4) of this regulation, the provisions of these regulations relating to the working copy shall also apply, with any necessary modifications, to each copy made of the working copy.

12. Production and retention of master tape in Court—(1) Where a videotape of the complainant's evidence is to be used in any proceedings, the master tape shall be produced, together with a typed transcript of the interview prepared by the Police.

(2) Once produced, the master tape shall be retained in Court custody until destroyed or erased in accordance with regulation 14 of these regulations.

13. Obligation to give transcript to defence before preliminary hearing—(1) Where the evidence of the complainant is to be given in the form of a videotape at a preliminary hearing, the prosecutor shall cause a

typed transcript of the interview prepared by the Police to be given to the defendant or the defendant's solicitor at least 7 days before the date on which the hearing is to commence.

(2) If the Court at the hearing is satisfied that subclause (1) of this regulation has not been complied with, the Court may adjourn the hearing to allow further time for the defendant to consider the transcript.

14. Destruction and custody of tapes—(1) For the purposes of this regulation, "the destruction date" means the date of the expiry of the period of 7 years commencing with—

(a) The date on which the proceedings are finally determined; or

(b) If for any reason no proceedings are brought, the date on which the videotape was originally made.

(2) The Police shall retain custody of the master tape until it is produced in Court, or (if for any reason no proceedings are brought) until the destruction date.

(3) On the destruction date, the Court or (as the case may require) the Police shall destroy or erase the master tape.

(4) Subject to regulation 11 of these regulations, the Police shall, until the destruction date, retain custody of—

(a) The working copy; and

(b) Any copy made for Police purposes.

(5) Where the Department of Social Welfare has, pursuant to a request under regulation 11 of these regulations, obtained the working copy or a copy of the working copy, that Department shall, subject to regulation 11 (5) of these regulations, retain custody of the working copy or the copy of the working copy until the destruction date.

(6) On the destruction date, the working copy shall be erased or destroyed—

(a) By the Police; or

(b) Where the working copy is in the custody of the Department of Social Welfare, by that Department.

(7) On the destruction date,—

(a) The Police shall erase or destroy any copy of the working copy in the custody of the Police; and

(b) The Department of Social Welfare shall erase or destroy any copy of the working copy in the custody of that Department.

(8) Until the destruction date, the master tape, the working copy, and every copy of the working copy shall be retained in such a way as to preserve the privacy of the persons recorded on it.

Regs. 8 (1), 9 (1)

SCHEDULE

CERTIFICATE FOR MASTER TAPE (*or* WORKING COPY) OF VIDEOTAPE OF INTERVIEW WITH CHILD COMPLAINANT

Tape reference: .....

Date of interview: .....

Location of interview: .....

Time of commencement: .....

Time of conclusion: .....

Duration and reasons for breaks or premature conclusion of interview:

.....

Name of complainant: .....

Date of birth of complainant: .....

Address of complainant: .....

Guardians of complainant: .....

Name and designation of interviewer: .....

Name and designation of other persons present at interview:

.....

Cross reference to other interviews with complainant: .....

I certify that the contents of this certificate are correct.

.....
Signature of Interviewer

.....
Date of Certificate

MARIE SHROFF,
Clerk of the Executive Council.

EXPLANATORY NOTE

This note is not part of the regulations, but is intended to indicate their general effect.

These regulations, which come into force on the 28th day after the date of their notification in the *Gazette*, prescribe the procedure to be followed where the evidence of the complainant is to be given by videotape in certain cases. Broadly, those cases are ones of a sexual nature involving a complainant who, at the commencement of the proceedings, is under the age of 17 years.

Issued under the authority of the Acts and Regulations Publication Act 1989.
Date of notification in *Gazette*: 12 July 1990.
These regulations are administered in the Department of Justice.

182

WELLINGTON, NEW ZEALAND: Published under the authority of the New Zealand Government—1990

APPENDIX B.

INTERVIEWS WITH CIB STAFF

While this study focused primarily on the review of files, interviews were conducted with detectives from the various CIB squads to obtain impressions on:

—their approach to child sexual abuse complaints; —their attitudes towards child victims and; —their perception of the Criminal Justice System.

Clearly anybody being interviewed is likely to present themselves and their work in a favourable light. However it was obvious from the files reviewed that in general what the detectives stated in the interviews was consistent with the comments and notes contained within the files.

14.1 CHRISTCHURCH

14.1.1 **The Person Squad Approach**

The Christchurch Person Squad was required to investigate any complaint involving an offence against a person. This included homicides, assaults, rapes and all other sexual offences, including those against children.

Christchurch did not have a Sexual Abuse Team or a Child Protection Team, although efforts were being made between the Police and the Department of Social Welfare in particular to improve their co-ordination in sexual abuse complaints. Child and Family Guidance staff were also available to undertake specialist interviews of child victims.

A number of issues regarding the investigation of child sexual abuse complaints were identified:

— sexual offences against children were but one of the Person Squad's responsibilities, and given their other workload demands (and the immediacy of some of these e.g., homicides) it was sometimes not possible to follow up child sexual abuse complaints promptly.

—when the Person Squad was rostered off-duty, child sexual abuse complaints would be investigated by a detective from one of the other squads who may not necessarily have expertise in dealing with sexual offences against children.

—the rotation of staff between squads to gain experience in all aspects of CIB work made it difficult for the Person Squad to retain experienced staff and build up their level of expertise in the sexual abuse field.

— the CIB required improved interview rooms which were child centred and comfortable.

—there was a need for an improved standard of medical reports and more medical practitioners skilled in the examination of child sexual abuse victims.

— prompter referral of cases to the Police so that the alleged offender was not "warned off" by others.

—- a commitment to the multidisciplinary approach to child abuse thereby enabling improved liaison and co-ordination between all agencies.

— training as to the nature and dynamics of child sexual abuse.

Source: New Zealand Advisory Committee on the Investigation, Detection and Prosecution of Offences Against Children. (October, 1988). *A Private or Public Nightmare? - Report of the Advisory Committee on the Investigation, Detection and Prosecution of Offences Against Children.* Wellington, New Zealand. Appendix II, p. 89.

APPENDIX C.

Instruments.

Police File Review

1. **Case Information**
   a. Research code #: _____
   b. Date file opened: ___/___/___
   c. Hours of investigation: _____
   d. Officer in charge: _____

2. **Initial Investigation.**

1 Date of first report of suspected abuse: ___/___/___
2. Reporting agency _____
3. Date of initial investigation: ___/___/___
4. Other agencies involved:_____
5. Date of first occurrence ___/___/___
6. Date of most recent occurrence: ___/___/___
7. How long after the assault was the report made?_____days
8. If offences occurred over a period of time what was the estimated time period? _____days.
9. Were the offences disclosed?
   1= yes
   2= no
10. Victim research code: _____
11. Number of victims:_____
    Other victim's codes: _____
12. Number of alleged offenders:_____
    Research code of other offenders _____
13. Sex of victim:
    1= male
    2= female
14. Age of victim: DOB __/__/__
    when incident (A) began _____
    (B) most recent_____
15. Age of victim at time of police report:____
16. race of victim: _____
17. Relationship of alleged offender to victim:_____

18. Was there any resistance within the victim's family toward the police investigation?

1= yes

2= no

3= unknown

19. Which forms of abuse allegedly occurred? Type/date

_____ _____

_____ _____

_____ _____

_____ _____

IN SO CO AS EX

_____ _____ _____ _____ _____

20. Location of the offence: _____

21. Describe the nature of any force that occurred:

_____

22. Did the alleged offender instruct the victim to not tell anyone about the abuse:

_____

23. Was there a medical examination carried out?

1= yes

2= no

24. Did it confirm the complaint?

1= yes

2= no

25. What, if any, was the role of DSW in this case?

_____

_____

_____

26. Was a victim impact statement taken?

1= yes

2= no

Incident Case Report

1. a) Was complaint classified as false ?
   1= yes
   2= no
   b) How was case cleared:

   _____

   _____

2 If case was cleared by charge, what formal charge(s) was initially laid?

   _____

   How many counts of each?

   _____

3. What is the current inquiry result of the case (as noted by the police):_____

   _____

   _____

Offender Profile

1 Sex of offender
   1= male
   2= female
2 Marital status of alleged offender? _____
3 Number of children?_____
4 Accused's employment: _____
5 Accused's mental health: _____
7 Time in custody awaiting trial: _____
8 Age of offender at time of first offence _____
9 Age of offender at time of investigation _____
10 Date of birth ___/___/___
11 Race/ethnic origin: _____
12 Was the alleged offender living with the victim at the time of the alleged incident?
   1= yes
   2= no
13 Describe the situation that provided the offender access to the victim:

   _____

   _____

14 Did the alleged offender admit guilt to the police?

1= yes	When:	1= initial interview
2= no		2= at deps conf.
		3= at trial

15 Was alleged offender questioned?
   1= yes
   2= no
   If yes, When? _____
   Where? _____
   How? _____
16 Number of unrelated convictions:_____
17 Number of related convictions: _____
18 Mode of apprehension: _____

Case Details.

Charges Laid	Indictable
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

Priority of file code: __

Preliminary Inquiry Review

Date of initial hearing(s) : ___/___/___ ___/___/___ ___/___/___
Date of Pre-deps. conference ___/___/___
Date of depositions hearing (preliminary inquiry): ___/___/___
Date of pre-trial conference: ___/___/___
Date of trial: ___/___/___
Date of sentencing ___/___/___
Date of final decision: ___/___/___
*SOR sent 1= yes
2= no

Outcome of pre-trial argument regarding the mode of evidence:

1= child takes the stand
2= screen placed in front of the child
3= closed circuit television evidence throughout trial
4= videotaped evidence of evidence-in-chief
CCTV of cross-examination and re-examination
5= Other _____

Witnesses

Witness Codes

01 = Social worker
02 = Mother of victim
03 = Father of victim
04 = sibling of victim
05 = Other relative of victim
06 = Foster parent of victim
07 = Teacher
08 = Day care worker
09 = Doctor
10 = Psychologist
11 = Psychiatrist
12 = Therapist / counsellor
13 = Clergy
14 = Police
15 = Accused
16 = Child victim
20 = Other

Were there any witnesses?

1= yes 2= no

number of witnesses:_____

Number of adult witnesses (18 years and over) _____

Type of witness	number
_____	____
_____	____
_____	____
_____	____
_____	____

Physical evidence

What physical evidence was entered?

Type of evidence

Physician's report _____

Other_____

Other evidence submitted;_____

Videotape of Victim Interview.

How many interviews were done with the victim? _____

Was a videotape of the victim interview made

1= yes

2= no

Date of taping: ___/___/___

Did the tape include identification of the alleged offender?

1= yes

2= no

Did the accused view the tape?

1= yes

2= no

3= unknown

Termination of court process prior to conclusion of trial.

How were charges terminated?

1= withdrawn or dismissed at request of victim or parents/guardian

2= withdrawn or dismissed by Crown/ Police

3= guilty plea

a) Charge _____ When: _____

b) Charge _____ _____

c) Charge _____ _____

Sentence if Charge terminated by Guilty Plea.

1. Was a pre-sentence report requested?

   1= yes

   2= no

2. Was a psychological assessment or psychiatric evaluation of accused requested?

   1=yes

   2= no

3. Was a victim impact statement submitted?

   1= yes

   2= no

   What details were covered (if available) _____

   _____

   _____

6. Judge admits victim impact statement?

   1= yes

   2= no

   Reasons:_____

   _____

   Sentence outcome: Date: ___/___/___

   _____

   _____

   _____

   _____

Courtroom Details.

Background Information:

Research Code :
Date of trial: ___/___/__
Type of court:_____
Adjournments: Y/N If yes, number_____
length of adjournment
reason for adjournment
adj 1. _____ | _____
adj 2. _____ | _____
adj 3. _____ | _____
adj 4. _____ | _____
did victim appear in court? Y/N
number of times child appeared in court for this case: _____
age of child at court proceedings: _____

Courtroom environment during child's testimony.

Note which means were implemented during the child's testimony and any documented circumstances surrounding their use

a) child testifies behind screen:_____
_____
b) child testifies with closed-circuit television: _____
_____
c) child given booster seat: _____
_____
d) adult accompanies child to stand: _____
_____
e) support adult stays in court room; _____
_____
f) witnesses cleared from the court during child's testimony: _____
_____
g) accused cleared from court:_____
_____
h) spectators cleared from court:_____
_____

i) child allowed to testify turned away from the accused:_____

_____

j) child testifies through one-way glass:_____

_____

k) accused seated at back of courtroom or child's view otherwise obstructed:

_____

l) child's testimony presented by videotaped interview: _____

_____

m) child allowed to bring toy, blanket etc.:_____

_____

n) expert testifies about significance of child's testimony:_____

_____

o) other innovative procedures used:_____

_____

p) did anything occur that may have added to child's stress:_____

_____

q)number of people in the room when child's testimony presented:____

r) were any aids used to help child's testimony?

1= yes

2= no

(specify)_____

_____

s) what, if any, comments were made relating to child's behaviour in court:

_____

_____

Competence to Testify

1. Was child questioned about competence to give evidence?

1= yes

2= no

If yes, by whom? _____

If yes, which of the following areas are covered, directly or indirectly?

_____ a) Age

_____ b) Grade

_____ c) Moral obligation

_____ d) Meaning of oath

_____ e) Added responsibility to tell the truth

_____ f) Ability to communicate

_____ g) Seriousness of occasion

_____ h) Belief in God/ religious belief

_____ i) Promise to tell the truth

_____ j) Other (specify) _____

3 Defence challenged child's competence to give evidence? _____

1= yes

2= no

Child Victim Testimony.

1. Did the victim testify?

1= yes

2= no

2. How many days did the victim testify?

1= one

2= two

3= three or more (specify) _____

3. a) Did child describe the incident(s) while testifying?

1= yes

2= no

4. Any exhibits shown in court

1= yes

2= no

specify _____

Videotaped evidence

1. Use of videotaped evidence requested for evidence in chief?

   1= yes

   2= no

2. Were witnesses called with reference to videotaped evidence?

   1= yes

   2= no

   b) If yes, list and comment on type of testimony given by each witness.

Witness	Testimony summary
_____	_____
_____	_____
_____	_____
_____	_____

3. Was tape shown in court?

   1= yes

   2= no

4 a) Was tape edited?

   1= yes

   2= no

5 a) Was the child present for viewing the videotape?

   1= yes

   2= no

6 a) Did the child 'adopt the testimony'?

   1= yes

   2= no

7 a) Did Defence use the tape to discredit the child's evidence?

   1= yes

   2= no

   b) If yes, how:

   _____

8 a) Was any comment made about interview methods shown by tape?

   1= yes

   2= no

   b) if yes, by whom?

   1= Crown

   2= Defence

   3= Judge

Examination.

1. Judge asks questions?
   1= yes
   2= no

2. Was child cross-examined by defence ?
   1= yes
   2= no

3. Defence raises issues?

____	a)	Identity of accused
____	b)	Nature of contact
____	c)	Consent of the acts
____	d)	No threats or force
____	e)	No relationship of dependency/ trust/ authority
____	f)	Use of drugs/ alcohol by victim
____	g)	Provocation by victim
____	h)	Use of drugs/ alcohol by accused
____	i)	Past sexual conduct of victim
____	j)	Reputation of victim
____	k)	Fabrication of allegation
____	l)	Inconsistency with previous testimony
____	m)	Inconsistency with videotape
____	n)	Validity/ value of videotape
____	o)	Circumstances of disclosure
____	p)	Reasons for disclosure

4. Was child re-examined?
   1= yes
   2= no

Recanting.

1. a) Did child recant?
   1= yes
   2= no

   b) If yes, when did the child recant?

   _____

   _____

   c) If yes, what did the child recant?_____
   1= The whole incident
   2= The identity of the perpetrator
   3= The perpetrator's main actions during the incident
   4= The number of assaults
   5= When the assault(s) occurred
   6= Where the assault(s) occurred
   7= Peripheral details
   8= Other:

   _____

Outcome

Trial #1 a) convicted
b) acquitted

Details of the outcome:

_____

_____

_____

_____

_____

_____

_____

_____

Sentence

Date of sentencing ___/___/___

Sentence outcome:_____

_____

_____

Factors taken into consideration when sentencing:

_____

_____

_____

Appeals

a) Was the decision on any charges appealed?

1= yes

2= no

state details of appeal:_____

_____

_____

d) date of appeal: ___/___/___

e) appeal decision date: ___/___/___

f) appeal result on charge #1

1= conviction and sentence upheld

2= conviction upheld , sentence changed to _____

3= acquittal upheld

4= acquittal directed

5= new trial directed

Assistance for the Victim

Was there any treatment or therapy provided for the victim?

1= yes

2= no

Details: _____

Question Guidelines for Officers in Charge of Files.

1. When was the Child Abuse Unit set up?
2. How many staff are/were on the unit?
3. How are child abuse cases followed up? By whom?
4. Are there any prerequisites required for working at the unit?
5. Are detectives at the unit given any specific training regarding sexual abuse and child development 1) before starting at the unit?
   2) during time at the unit?
6. Is training adequate?
7. What is the turnover of staff like? Now? before?
8. What are the facilities like for the investigation of child abuse complaints?
9. Are there any new developments in the facilities? now? then?
10. Have the standards of medical reports and the skill of the medical practitioners improved since the establishment of the Child Abuse Unit?
11. Is there a need for improvement in this area?
12. Do you feel that referrals from other agencies is prompt enough so that alleged offenders are not 'warned off' by others?
13. Is this a problem?
14. What is your view of the liaison and co-ordination between the Child Abuse Unit and other agencies?

APPENDIX D.

POLICE ROLE IN THE INVESTIGATION OF CHILD ABUSE COMPLAINTS

Primary function: The investigation of all reported cases of sexual abuse against children, incidents of serious physical abuse, and where appropriate, prosecution of the offender.

ORGANISATIONAL STRUCTURE

The Criminal Investigative Branch is generally responsible for investigation of child sexual abuse and serious physical abuse of children.

Stranger Attacks

1.1 Reports should be made to the nearest Police Station as soon as possible.

1.2 Many serious assaults occur in public places where evidence is quickly lost or destroyed, therefore prompt involvement of Police will have a direct bearing in the success on enquiries.

1.3 Initial contact with witnesses or the complainant may be made by a uniform Police Officer although the enquiry may subsequently be investigated by a member of the CIB.

1.4 An initial report may be taken for the child to enable initial enquiries to locate the offender.

1.5 A subsequent specialist interview of the child may be required.

1.6 An appropriate medical examination of the child may be required with a view to preserving forensic evidence.

1.7 On-going counselling/therapy may be required for the child. The Police have a responsibility under the Victims of Offences Act 1987 to ensure that victims of offences have access to "welfare, health, counselling, medical and legal assistance respective to their needs".

2 Child Abuse Unit

The Christchurch Police maintain a dedicated unit to investigate reported cases of sexual and serious physical abuse of children.

2.1 Case Screening Criteria

2.1.1 Investigation of the reported sexual abuse of children (presently) under the age of 17 years.

Therefore does not include "historical" abuse where the victim is now an adult (i.e. 17 years or over).

Does not include street crimes such as exhibitionism or stranger attacks. This requires a different range of resources not immediately available at the Child Abuse Unit.

2.1.2 Serious physical assault of children.

Does not include cases where the assault is of a minor nature.

Applies to children under 17 years.

Includes cases of gross neglect where the life of the child may be at risk.

Minor assaults or less cases of neglect are dealt with by Police subdistricts.

Explanatory notes

Case screening is applied to the prioritisation of files according to the criteria determined by the Child Abuse Unit.

In some cities the Police will have a sexual abuse investigation unit, usually referred to as a SAT squad which will investigate all forms of sexual abuse including the so called "historical" abuse cases. The large amount of reported child abuse cases in Christchurch does not allow the Child Abuse Unit to carry out these investigations.
Occasionally exceptions will be made to the case screening criteria. For example an "historical" case of sexual abuse where the victim is now an adult may be

investigated by the Child Abuse Unit if this has an evidential bearing on a child abuse case under investigation.

The Child Abuse Unit, as one of its functions, also acts as an advisory unit to other Police units, and to public or agency requests.

2.2 Commitment

2.2.1

The Unit is comprised of Manager: A detective sergeant, CIB detectives including one detective, two detective constables, two constables and a typist.

2.2.2

Fundamental to the operation of the Unit is a commitment to consultation and joint action in accordance with the national policy developed in consultation with Department of Social Welfare.

2.2.3

Social workers for Children and Young Persons Service are the principle partners in Child Abuse Unit investigations.

2.2.4

In general terms, agency responsibility for Child Abuse Unit tasks

Protection of the child (Children and Young Persons Service).

Prosecution of the offender (Police).

Crisis Support, counselling and the initiation of therapy for the child, non-offending parent and family member (Department of Social Welfare/or counselling agency).

2.2.5

Police staff are selected to work in this area with regard to sensitivity, aptitude and interest.

2.2.6

Police personnel receive specialised training prior to deployment in this area and receive on-going training.

2.3 **Procedures**

2.3.1

A report of suspected abuse consistent with the criteria should be referred to the Child Abuse Unit as soon as practicable.

2.3.2

Where Child Abuse Unit personnel are unavailable and it is necessary that the investigation or intervention proceed as a matter of urgency, then the duty CIB should be advised.

2.3.3

The Child Abuse Unit is responsible for planning the investigation.

2.3.4

It is desirable that consultation with Children and Young Persons Service take place before action is taken. Ideally a social worker should be assigned to the case in the first instance and remain involved with the investigation to its conclusion.

2.3.5

Reports of sexual and serious physical abuse are given priority, however it is not always necessary to begin the investigation immediately.

2.3.6

Where a child discloses a sexual abuse incident the investigation proceeds on the assumption that the report warrants full investigation. Any recanting by the child should not be taken as proof that the abuse did not occur.

2.3.7

The number of interviews of the child should be kept to an absolute minimum. The interview should be recorded exactly, in writing or video recording where equipment is available.

2.3.8

Where a medical examination is indicated DSAC doctors or the Paediatrics Department should be utilised. The social worker should ensure that the doctor complete a medical certificate for Accident Compensation claim purposes, and that the claim for Accident Compensation Corporation is subsequently lodged.

2.3.9
Where a Place of Safety Warrant is needed the social worker will be responsible for initiating the proceedings.

Once criminal charges have been initiated the social worker may be required to contribute to the criminal proceedings in two significant areas.

Pursuant to the Victims of Offences Act 1987 the social worker may be requested to provide a victim impact report.

Where the child is required to give evidence and be cross-examined, the child and the family must be supported throughout the proceedings.

2.4 **Facilities and Equipment**

2.4.1 Interviewing Facility

The Assistant Director of Children and Young Persons Service will ensure there is an appropriate venue for the interviewing of children. In Christchurch the Children and Young Persons Service Specialist Services Unit has developed a national reputation as a professional and highly regarded facility.

2.4.2 Medical Facilities

DSAC doctors, operate a specialist service from the Sexual Health Centre. Referrals are made through the Hospital Child Abuse Programme Co-ordinators for medical examinations in acute cases (both adult and children). The on call DSAC doctor will be advised and conduct the examination at the Sexual Health Clinic.

2.5 **Interaction**

The Unit develops and maintains liaison and communication with:

Internal

Police personnel
Region/District sexual abuse/child abuse teams
National Co-ordinator for Child Abuse

External

Department of Social Welfare: Children and Young Persons Service
Crown Solicitors
Child and Family Guidance Centre
Ministry of Education
Special Education Services
Canterbury Health Ltd
Plunket Society
Family Court
Legal practitioners
Medical practitioners, both paediatricians and DSAC

Note

This document was provided for use in this study with the permission of Detective Sergeant Jan Edge, the current manager of the Child Abuse Unit.